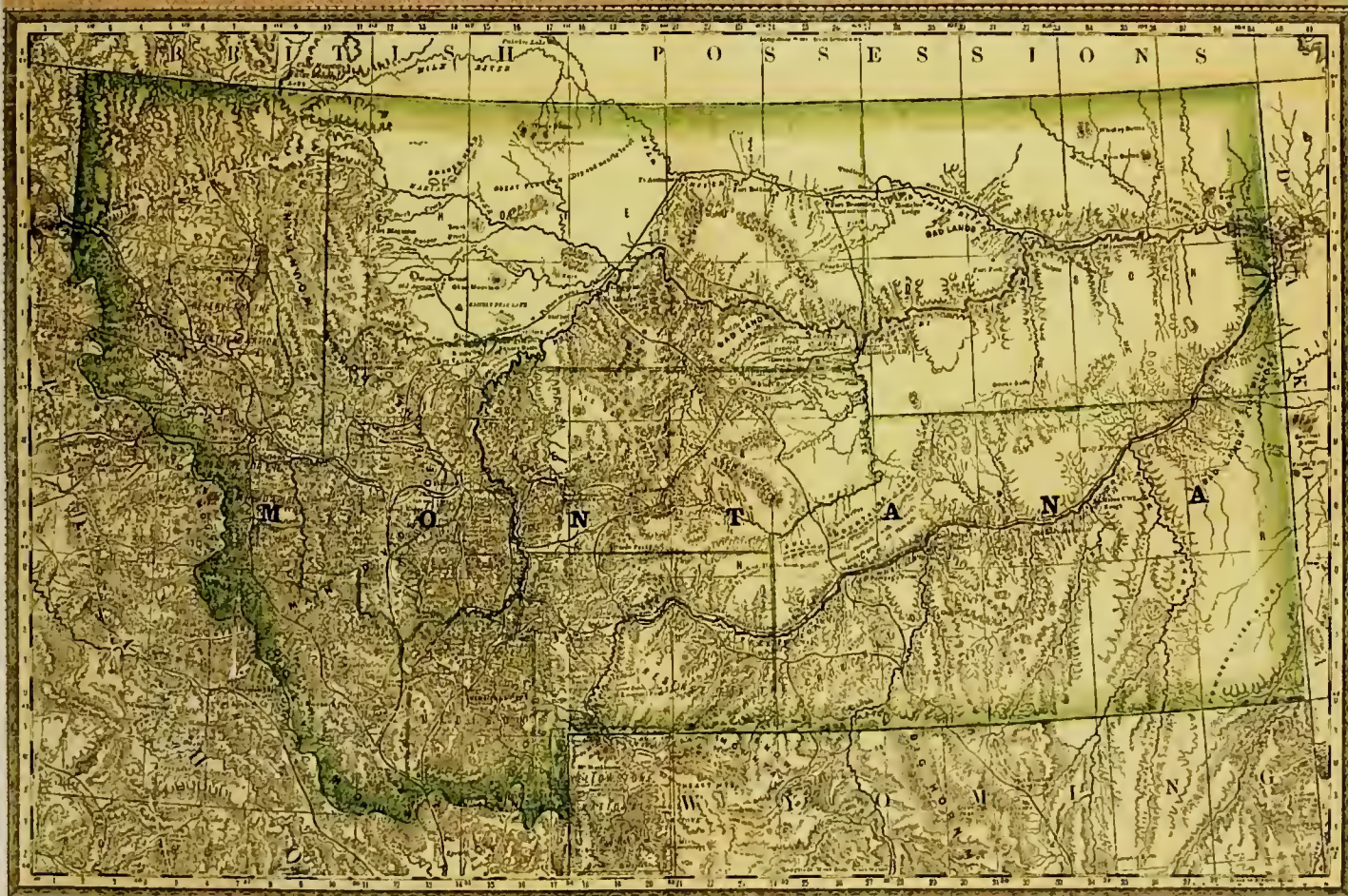


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Department of Labor and Industry - Employment Relations Division



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Montana

Department of Labor and Industry

Commissioner's Office

Dear Colleagues and Fellow Montanans,

The 2006 Workers' Compensation Annual Report has been prepared for the Governor, the legislature and the stakeholders in Montana's workers' compensation system to provide an overview of system activities in Montana. I am pleased to present this year's report.



It has been a busy and productive year for stakeholders in the Montana workers' compensation system. Some of the more significant activities were the Workers' Compensation Study Project, creation of the Workers' Compensation Labor Management Advisory Council, completion of an administrative inventory by the Workers' Compensation Research Institute (WCRI), and passage of numerous laws related to workers' compensation by the 2007 Montana Legislature.

As a follow-up to last year's efforts, the Department assembled a Workers' Compensation Labor Management Advisory Council to address continued improvement of our workers' compensation system and to make Montana more inviting to business. In particular, the Council will focus on key areas identified by the Workers' Compensation Study project: injury prevention, medical fee schedules, utilization and treatment guidelines, early return to work programs and equitable claims settlements. In the coming year, the Department and the Council will:

- Develop and begin implementation of new medical fee schedules and treatment and utilization guidelines to improve service to workers, employers and other system stakeholders;
- Consider a state-wide safety initiative to highlight the dramatic need for injury prevention and the associated benefits to the workers, businesses and workers' compensation system via better health, increased productivity and lowered costs;
- Identify methods to help workers return to work as quickly as possible after an injury; and
- Research claim closures in Montana.

These efforts are just a few examples of the Department's commitment to strive for continuous improvement in the workers' compensation system and make Montana a better place for its workers and the business community.

Sincerely,

A handwritten signature in blue ink that reads "Keith Kelly".

KEITH KELLY
Commissioner



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Table of Contents & Charts

Summary.....	V
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Section 1: Workers' Compensation Study Project

Phase I	3
Phase II	5

Section 2: 2007 Montana Legislative Summary

House Bills	9
Senate Bills	10

Section 3: Montana's Workers' Compensation System

Declaration of Public Policy	15
Insurance Coverage Requirements	16
Life of a Claim	17
Workers' Compensation System Administration.....	19
Workers' Compensation Market.....	21
Exhibit 3.1 – Gross Annual Payroll – Plan 1 By Calendar Year (graph).....	21
Exhibit 3.2 – Premium Dollars – Plans 2 and 3 By Calendar Year (graph)	21
Exhibit 3.3 – Market Share – By Plan and Calendar Year (table).....	21

Section 4: Claims Statistics

Comparison of Claims by Plan Type.....	24
Exhibit 4.1 – Reported Claims – Five Year Trend by Plan Type (graph)	24
Exhibit 4.2 – Reported Claims – By Plan Type and Fiscal Year of Injury (table).....	24
Injured Worker Characteristics	25
Exhibit 4.3 – Reported Claims FY06 – By SIC Major Groups (graph)	25
Exhibit 4.4 – Reported Claims – By SIC Major Groups and Fiscal Year of Injury (table)	25
Exhibit 4.5 – Reported Claims FY06 – By SIC Major Groups and Gender (graph)	26
Exhibit 4.6 – Reported Claims FY06 – By SIC Major Groups and Gender (table)	26
Exhibit 4.7 – Reported Claims FY06 – By Nature of Injury (graph)	27
Exhibit 4.8 – Reported Claims – By Nature of Injury and Fiscal Year of Injury (table)	27
Exhibit 4.9 – Reported Claims FY06 – By Cause of Injury (graph).....	28
Exhibit 4.10 – Reported Claims – By Cause of Injury and Fiscal Year of Injury (table).....	28
Exhibit 4.11 – Reported Claims FY06 – By Industry and Cause of Injury (table).....	28
Exhibit 4.12 – Reported Claims FY06 – By Part of Body (graph)	29
Exhibit 4.13 – Reported Claims – By Part of Body and Fiscal Year of Injury (table).....	29

Insurer Denial of Claims	30
Exhibit 4.14 – Insurer Denial of Claims – By Reason of Denial and Fiscal Year of Injury (table)	30
Exhibit 4.15 – Insurer Denial of Claims – By Percent and Fiscal Year of Injury (graph).....	30
Fatal Occupational Injuries - 2005.....	31
Exhibit 4.16 – Occupational Fatalities – Ten Year Comparison (graph)	31
Exhibit 4.17 – Fatal Work Injuries in Selected Industries (graph)	32
Exhibit 4.18 – Occupations with the Largest Number of Fatalities (graph).....	32
Exhibit 4.19 – Occupational Fatalities by Gender (graph)	33
Exhibit 4.20 – Workplace Fatalities by Event or Exposure (graph)	33
Exhibit 4.21 – Fatal Work Injuries by Location (graph)	34
Exhibit 4.22 – Occupational Fatalities by Employee Status (graph)	34
Exhibit 4.23 – Occupational Fatalities by Age (graph).....	35

Section 5: Benefits

Total Benefits	38
Exhibit 5.1 – Total Benefits Paid FY06 – By Plan Type (graph)	38
Exhibit 5.2 – Total Benefits Paid – By Plan Type and Fiscal Year of Payment (table)	38
Exhibit 5.3 – Medical Payments FY06 – By Plan Type (graph)	39
Exhibit 5.4 – Medical Payments – By Plan Type and Fiscal Year of Payment (table).....	39
Exhibit 5.5 – Indemnity Payments FY06 – By Plan Type (graph)	40
Exhibit 5.6 – Indemnity Payments – By Plan Type and Fiscal Year of Payment (table).....	40
Benefit Report Data.....	41
Exhibit 5.7 – Total Wage Replacement: TTD, TPD, PTD, PPD, including Lump Sums (table)	42
Exhibit 5.8 – Total Medical Costs, including Lump Sums (table)	42
Exhibit 5.9 – Wage Replacement: Temporary Total Disability (table)	43
Exhibit 5.10 – Wage Replacement: Temporary Partial Disability (table).....	43
Exhibit 5.11 – Wage Replacement: Permanent Partial Disability (table).....	44
Exhibit 5.12 – Wage Replacement: Permanent Total Disability (table).....	44
Exhibit 5.13 – Medical Costs: Payments to Physicians Paid to Date (table).....	45
Exhibit 5.14 – Medical Costs: Payments to Hospitals (table).....	45
Exhibit 5.15 – Medical Costs: Payments to other Medical Providers (table).....	46
Exhibit 5.16 – Medical Costs: Paid to Physicians, Hospitals and Other medical Providers (table)	46
Exhibit 5.17 – Wage Replacement: Lump Sums (table).....	47
Exhibit 5.18 – Medical Lump Sums: Paid to Claimant as Settlement of Medical Liability (table)	47
Exhibit 5.19 – Wage Replacement: Vocational Rehabilitation Benefits (table)	48
Settlement Dollars.....	49
Exhibit 5.20 – Average Settlement – By Fiscal Year of Injury (graph)	49
Exhibit 5.21 – Settlement Amounts for Claims Settled – By Plan Type and Fiscal Year of Injury (table).....	49
Attorney Fees	50
Exhibit 5.22 – Total Attorney Legal Fee – By Plan Type and Fiscal Year of Injury (table)	50
Exhibit 5.23 – Average Attorney Legal Fees – By Fiscal Year of Injury (graph).....	50
Exhibit 5.24 – Attorney Fees from Claimant Settlements – By Fiscal Year of Settlement (table)	51

Section 6: Dispute Resolution

Occupational Disease Evaluations	54
Exhibit 6.1 – Occupational Disease Cases – By Plan Type and Fiscal Year of Evaluation Request (table)	54
Mediation	55
Exhibit 6.2 – Claims in Mediation FY06 – By Plan Type (graph)	55
Exhibit 6.3 – Claims in Mediation – By Plan Type and Fiscal Year of Receipt (table).....	55
Exhibit 6.4 – Percent of Petitions Resolved – By Mediation FY06 (graph).....	56
Exhibit 6.5 – Mediation Petitions – By Fiscal Year of Receipt (table)	56
Contested Case Hearings	57
Exhibit 6.6 – Petitions Received by the Hearings Bureau FY06 – By Plan Type (graph)	57
Exhibit 6.7 – Petitions Received by the Hearings Bureau – By Plan Type and Fiscal Year (table)	57

Workers' Compensation Court.....	58
Exhibit 6.8 – Percent of Petitions Received by the WCC FY06 – By Plan Type (graph).....	58
Exhibit 6.9 – Petitions Received by the WCC – By Plan Type and Fiscal Year (table)	58
Exhibit 6.10 – Decisions by the WCC – By Fiscal Year (table).....	59
Exhibit 6.11 – Full and Final Compromise Settlements by the WCC – By Plan Type and Fiscal Year (table).....	59
 Significant Workers' Compensation Court Cases	 60
 Supreme Court Decisions on Workers' Compensation and Occupational Disease	 65

Section 7: Department Administered Programs

Organizational Charts	70
Exhibit 7.1 – Montana Department of Labor & Industry (chart).....	70
Exhibit 7.2 – Employment Relations Division (chart).....	70
 Workers' Compensation Assessments as Expended.....	 71
Exhibit 7.3 – Workers' Compensation Assessments as Expended – By Fiscal Year of Expenditure (table).....	71
 Subsequent Injury Fund	 72
Exhibit 7.4 – SIF Payments and Dollars Assessed – By Plan Type and Calendar/Fiscal Years (table)	72
 Uninsured Employers' Fund.....	 73
Exhibit 7.5 – Uninsured Employers' Fund – Financial Activity by Fiscal Year (graph)	73
Exhibit 7.6 – Uninsured Employers' Fund – Financial Activity by Fiscal Year (table).....	73
Exhibit 7.7 – UEF Medical and Indemnity Payments FY06 (graph)	74
Exhibit 7.8 – UEF Medical and Indemnity Payments – By Fiscal Year (table)	74
 Occupational Safety & Health.....	 75
Exhibit 7.9 – Occupational Safety & Health Activities FY06 (tables).....	76
 Independent Contractor Exemption Certificates.....	 77
Exhibit 7.10 – Percent of IC Exemptions – By Industry (graph).....	77
 Professional Employer Organizations	 78
Exhibit 7.11 – Professional Employer Organizations – By Number of Licenses and Fiscal Year (graph).....	78
Exhibit 7.12 – Professional Employer Organizations – By Number of Clients and Fiscal Year (graph).....	79
Exhibit 7.13 – Professional Employer Organizations – By Leased Employees and Fiscal Year (graph)	79

Appendices

Definitions.....	82
 Methodology	 87
 Data Sources	 89
 Future Annual Reports.....	 90
 Internet Site	 90
 Special Studies Available	 90

Summary

Listed below are highlights from the Montana Workers' Compensation Annual Report Fiscal Year 2006. This report contains information about Montana's workers' compensation system, including injury statistics and characteristics, benefits paid to claimants, payments made by insurers to others in the system, dispute resolution and miscellaneous regulatory programs and functions. Unless otherwise cited, all reported numbers, charts, and tables are derived from the State of Montana workers' compensation database (WCAP).

Claims Statistics

There were 31,889 claims reported in Fiscal Year 2006 (FY06) compared with 32,164 reported in FY05. This is a decrease of 0.9% from FY05. Since FY02, the number of claims reported by the Montana State Fund has increased by 29.4% (from 10,944 to 14,166), while claims reported by private carriers have decreased by 30.6% (from 14,597 to 10,128). The number of claims reported by self-insurers has remained about the same. The service industry was responsible for 26.5% of all claims reported in FY06. Retail trade had the second largest percentage of claims at 11.1%.

Benefits

The total indemnity (wage loss) and medical benefits paid in FY06 were \$227,106,250 compared to \$210,307,885 in FY05, increasing \$16,798,365 or 8.0%. Medical benefit payments in FY06, as reported to the Department of Labor and Industry (DLI) increased from FY05 for Montana State Fund (19.5%), self insurers (5.5%) and private carriers (7.3%).

Dispute Resolution

The Claims Unit of the Employment Relations Division (ERD) is responsible for the occupational disease evaluation process. They processed 64 occupational disease cases in FY06. This is a decrease of 66.8% from FY05.

The Mediation Unit completes a case by holding a conference and issuing a written recommendation. During FY06, the unit processed 1,410 petitions, with a resolution rate of 81%.

The Hearings Bureau received 10 new petitions for contested case hearings in FY06, a decrease of 9.1% from FY05.

The Workers' Compensation Court (WCC) received 304 petitions, dismissed 96 petitions and issued 182 decisions in FY06.

Workers' Compensation Assessments as Expended

The administration of the Workers' Compensation and Occupational Disease Acts and the various occupational safety laws is funded by an assessment on employers and insurers. The cost of the regulatory functions in FY06 was \$5,553,324. Beginning in FY00, a new process was instituted and each insurer was assessed 3% of benefits paid. For policies written by

Plan 2, private insurers and Plan 3, the Montana State Fund, the assessment is collected as a premium surcharge paid by individual policy holders.

Subsequent Injury Fund

Subsequent Injury Fund (SIF) payments in FY06 for all dates of injury were \$425,783. There were 216 new SIF certifications during FY06 resulting in a total of 3,826 certified individuals in Montana.

Uninsured Employers' Fund

Uninsured Employers' Fund (UEF) provides benefits for injured employees when employers are without appropriate workers' compensation insurance. In FY06, UEF collections increased 7.5% from FY05, totaling \$2,051,992. There were 106 new claims and injured workers received \$661,920 in medical and indemnity benefits in FY06.

Occupational Safety & Health

The Occupational Safety & Health Bureau provided extensive state-wide services to improve safety culture across in Montana. Staff performed 502 inspections for the public sector and 242 consultation visits for the private sector. In addition, staff performed 34 inspections for the coal mining industry and 51 for sand and gravel operations. The Bureau Training Institute provided 43 occupational safety and health training courses and participated in a number of local health and safety focus groups aimed at improving safety knowledge and networking. Staff also trained over 2,000 miners and mine contractors through a Mine Safety and Health Administration (MSHA) federal grant.

Independent Contractor Exemptions

Independent contractors who do not wish to be covered under workers' compensation insurance may file for an exemption with the DLI. The number of independent contractor exemption applications received for FY06 totaled 10,254. Fifty-seven percent of the independent contractors are in the construction industry.

Professional Employer Organizations

To be licensed, a Professional Employer Organization (PEO) must submit an application and proof of workers' compensation coverage. Twenty-nine PEO's were licensed in Montana at the end of FY06. These PEOs leased 2,964 employees to 379 client companies.

Workers' Compensation Study Project

Phase I

Phase II

Workers' Compensation Study Project

Prompted by an Oregon research study that showed Montana's premium rates to be among the highest in the country, Governor Brian Schweitzer asked Lieutenant Governor John Bohlinger in February 2006 to lead an examination into the true costs and benefits of Montana's workers' compensation system. To take the study from idea to reality, Bohlinger turned to the DLI Commissioner Keith Kelly and ERD Administrator Jerry Keck. Mr. Keck organized a project team that was able to define the project's purpose and scope within a project management methodology.

The study was divided into two separate phases: Phase I, which ran through 2006, focused on research, information gathering, and issue analysis. Phase II began in mid-December 2006 with the launch of the Labor-Management Advisory Council on Workers' Compensation, and will continue through the 2009 session of the Montana Legislature.

Phase I

The purpose stated in the Project Charter for Phase I of the Workers' Compensation Study project was to define and conduct a study of the Montana workers' compensation system—premiums, benefits, costs and other factors—as compared to selected other states. The study will determine and establish accurate means of comparison across other state systems and report the results in an objective manner

The study set out to:

- Identify specific and well-defined metrics and sources of workers' compensation data.
- Solicit support for the study by engaging the input of stakeholders and interested parties, such as insurers, medical providers, injured workers, and legislators.
- Provide Montana workers' compensation policy makers with baseline information on the current status of the Montana system, as compared empirically and accurately with other states in the region. The following states were selected for comparison purposes:

Contiguous states: North Dakota, South Dakota, Wyoming, Idaho

Regional states: Washington, Oregon, Utah, Colorado

States with similar benefit structures: Arkansas, Kansas, Kentucky, Tennessee, Hawaii

- Determine primary cost drivers in the Montana workers' compensation system.

Over the course of the year, seven status meetings were chaired by Lt. Governor Bohlinger to report on project progress. Presentations and topics discussed in status meetings included:

- Workers' Compensation Policy Review template for Comparing States' Workers' Compensation Benefits and Costs;
- Treatment Guidelines: Rules and Instructions to Consider;
- A Basic Understanding of Cost Drivers;
- Comparison of Workers' Compensation Fee Schedule to Blue Cross Blue Shield and Medicare;
- Results of a survey of the study states on workers' compensation medical costs;
- Workers' Compensation Research Institute (WCRI) Illinois Comparison of State Medical Fee Schedules over Medicare;
- National Council on Compensation Insurance (NCCI) Overview of the Montana Workers' Compensation System;

- Oregon Worker's Compensation Premium Rate Ranking – An In-depth Look;
- Economic Metrics;
- Injury Prevention I - The Impact of Drug Use on Workplace Safety;
- Montana Workers' Compensation Loss Study;
- Return to Work.

In addition to these internal studies, ERD contracted with outside organizations and experts in these areas:

- The Workers' Compensation Research Institute (WCRI) conducted an administrative inventory using the same methodology employed for over 30 other states. The publication, "Workers' Compensation in Montana: Administrative Inventory" can be obtained from the DLI or purchased from WCRI by visiting their web site at www.wcrinet.org.
- Ingenix, a Minneapolis-area firm specializing in medical data, did a preliminary analysis for a new non-facilities medical fee schedule.
- Dr. John Burton, professor emeritus of Rutgers University and former chair of the 1972 National Commission on State Workers' Compensation Laws, routinely reviewed and advised the project team.

The Phase I Study identified four primary cost drivers that needed further investigation and analysis:

1. Frequency of Injuries - Montana has both a higher total claim frequency than neighboring study states and a larger proportion of claims that involve indemnity benefits. Montana's injury rate is approximately 57% higher than the national average. Our injury rates directly impact our workers' compensation rates.
2. Higher Medical Costs per Case - Montana's average incurred medical cost per claim is higher than all the study states, except Kentucky. Montana sets maximum medical fees much higher than the country's median for surgery and radiology. Overall, Montana's maximum medical fees are approximately 67% higher than Medicare's compared to the median at nearly 55% higher than Medicare.
3. Return to Work Duration - The median time in Montana until an injured worker during Calendar Year 2000 (CY00) returns to work is 79.8 days. The National Council on Compensation Insurance (NCCI) data indicates the accident year 1999-2002 average number of days to return to work in Montana is 136 days compared to the countrywide average of 85 days. Workers injured in CY00 lost 40.5% of the wages they would have earned if they had not been injured. Increased lost time durations have a significant negative effect on the wages an injured worker loses and increases the costs of benefits.
4. Settlement and Closure of Claims - Montana claims remain open longer than other states. Ten to 11% of indemnity claims are settled in Montana and medical benefits are closed in about 3% of settlements. WCRI's CompScope (2002/2005) data (10 states) show a median of 38% claims settled, most with closed medical benefits. Long tail medical claims increase incurred costs.

Phase II

Phase II of the Workers' Compensation Study project formally began when the Labor-Management Advisory Council (LMAC) on Workers' Compensation was formed in December 2006 through executive order by Commissioner Keith Kelly. The LMAC was formed following a model successfully employed by several other states. Other states have experienced significant success in modifying their workers' compensation systems by using similar advisory councils to suggest changes to improve their workers' compensation systems. The purpose of the LMAC is to provide a structure for an organized discussion of workers' compensation public policy, using data and reports collected in Phase I or additional data and/or reports requested by the LMAC. The primary outcome of the LMAC will be recommendations to the Commissioner of the DLI for proposed legislation for the 2009 Montana Legislature.

LMAC consists of five representatives of employees and five representatives of management, with Lt. Governor John Bohlinger serving as chair and Jerry Keck sitting on the council in an ad hoc role.

Members are:

Representing workers

Doug Buman

Laborers' Int'l Union of N. America
Seattle, WA 98168

Jacquie Helt

UNITE HERE! Local 427
Missoula, MT 59802

Don Judge

Injured Workers Resource Council
Helena, MT 59601

Dan Lee

AFL-CIO
Missoula, MT 59808

Jason Miller

AFL-CIO
Helena, MT 59601

Representing employers

Bill Dahlgren

Sun Mountain Sports
Missoula, MT 59802

Annette Hoffman

St. Vincent's Healthcare
Billings, MT 59101

Riley Johnson

National Federation of Independent Business
Helena, MT 59601

Connie Welsh

State of Montana
Helena, MT 59620-0127

Bob Worthington

Montana Municipal Insurance Authority
Helena, MT 59604-6669

The work plan for Phase II focuses the work of the LMAC in the four primary areas identified in Phase I and other topics identified by the council:

1. Safety policy review - Address the high frequency of claims in Montana.
2. Medical topics review - Review pharmacy fee schedule, non-facilities fee schedule, facilities fee schedule, and utilization and treatment guidelines.
3. Return-to-work topics - Identify ways to reduce the duration of time off work by returning injured workers to employment.
4. Settlements and closure of claims - Provide fair and reasonable ways for parties to agree upon settlements that close claims and reduce the long tail, unpredictable effect on costs.
5. Other requested topics - These include exemptions to the workers' compensation system and licensing of claims examiners or alternatives to licensing.

Please visit our web site at <http://erd.dli.state.mt.us> for detailed information about the data collected and the LMAC meetings.

2007 Montana Legislative Updates

House Bills

Senate Bills

2007 Montana Legislative Summary

Several bills relating to workers' compensation were introduced during the 2007 Montana Legislature. The bills passed into law are summarized below.

House Bills

House Bill 65 - Effective July 1, 2007

Subject: General Workers' Compensation

Principle Effects of the Legislation:

- Clarifies DLI authority to enter onto construction sites for the purpose of enforcing workers' compensation laws (New section of Title 39, chapter 71, MCA);
- Provides that under specified conditions certain information regarding SIF certification may be released to a workers' compensation insurer; prohibits insurers from including SIF reimbursed costs as part of the calculation used in an employer's experience modification factor; increases the threshold for deferral of SIF assessments (39-71-225, 39-71-907 and 39-71-915, MCA);
- Limits UEF medical payments to \$100,000 per claim; establishes that the injured employee is not liable to any third-party provider that is not reimbursed by the UEF; establishes the third-party provider's right to bring an action directly against the uninsured employer for amounts not paid by the UEF (39-71-503, 39-71-508, and 39-71-510, MCA).

House Bill 72 - Effective July 1, 2007

Subject: Professional Employer Organizations and Groups Licensing

Principle Effects of the Legislation:

- Improves the DLI's ability to license PEOs by granting authority to conduct a background check through the Montana Department of Justice (DOJ) and the FBI (39-8-202, MCA);
- Allows the DLI to waive these requirements if the PEO provides an affidavit from a bonded, independent, and qualified assurance organization, approved by the DLI, certifying the qualification of a PEO or group seeking licensure (39-8-207, MCA).

House Bill 738 - Effective July 1, 2007 (except when otherwise indicated)

Subject: Medical Fee Schedules and Utilization and Treatment Guidelines

Principle Effects of the Legislation:

- Clarifies that occupational disease medical benefits also terminate if not used for a period of 60 months (39-71-704, MCA);
- Establishes an interim medical fee schedule (39-71-704, MCA);

- Authorizes the DLI to establish the medical fee schedule at no greater than 10% above the RBRVS reimbursement rates paid by disability insurers within Montana (39-71-704, MCA) - *Effective January 1, 2008*;
- Authorizes the DLI to establish medical billing coding standards (39-71-704, MCA) - *Effective January 1, 2008*;
- Authorizes the DLI to establish both evidence-based utilization and treatment guidelines for primary and secondary medical services and an independent medical review process for services denied under this provision (39-71-704, MCA);
- Establishes that neither the workers' compensation insurer nor the injured worker is liable for treatment of services that do not fall within the utilization and treatment guidelines, unless the provider obtained prior authorization from the insurer (39-71-704, MCA).

House Bill 785 - *Effective April 26, 2007*

Subject: Exemptions to Mandatory Coverage Requirements

Principle Effects of the Legislation:

- Exempts from mandatory workers' compensation coverage athletes employed by or on a team or sports club engaged in contact sports (39-71-401, MCA).

House Bill 786 - *Effective July 1, 2007*

Subject: Exemptions to Mandatory Coverage Requirements

Principle Effects of the Legislation:

- Exempts from mandatory workers' compensation persons performing the services of an intrastate or interstate common or contract motor carrier if hired by a broker as defined in 49 U.S.C. 13102 (39-71-401, MCA).

Senate Bills

Senate Bill 97 - *Effective March 16, 2007*

Subject: Highway Patrol Indemnity Benefit Payments

Principle Effects of the Legislation:

- Provides that the workers' compensation indemnity benefit is to be paid by the insurer directly to the DOJ, rather than to the Highway Patrol member, in order to offset the payment of the regular salary benefit. Previous legislation established that Highway Patrol members injured in performance of their duties will receive the full amount of the member's regular salary from the DOJ (39-71-742, 39-71-743, and 44-1-511, MCA).

Senate Bill 108 - Effective July 1, 2007

Subject: General Workers' Compensation

Principle Effects of the Legislation:

- Requires an insurer to give the DLI 14-day advance notice of changes in third party agents and provides a penalty for failure to do so (39-71-107, MCA);
- Clarifies the dispute resolution and appeal process for independent contractor issues (39-71-415, 39-71-417, and 39-71-418, MCA);
- Establishes an interim medical fee schedule (see HB 738) (39-71-704, MCA);
- Authorizes the DLI to establish both evidence-based utilization and treatment guidelines for primary and secondary medical services and an independent medical review process for services denied under this provision (39-71-704, MCA);
- Requires mediation for disputes over the amount reimbursed to a medical provider, prior to a hearing before the DLI (39-71-704, MCA);
- Authorizes the DLI to establish fee schedules for prescription drugs (39-71-727, MCA);
- Clarifies payment rates for domiciliary care provided by a family member (39-71-1107, MCA);
- Requires the insurers' security deposits be paid to the DLI within 30 days of the DLI's demand (39-71-2106, MCA);
- Clarifies that a captive reciprocal insurer is a Plan 2 insurer (39-71-2201, MCA);
- Allows the DLI to fine insurers who fail to timely report issuance and cancellation of Montana workers' compensation policies (39-71-2204, 39-71-2205, and 39-71-2337, MCA);
- Defines an impaired workers' compensation insurer, and requires an impaired workers' compensation insurer to furnish DLI with a claim summary on each claim for which the insurer may have future liability (New section of Title 39, Chapter 71, MCA);
- Requires Plan 2 insurers to post a security deposit between \$25,000 and \$250,000 for use by the DLI to pay claims in the event an impaired insurer ceases payment of Montana workers' compensation claims (New section of Title 39, Chapter 71, MCA).

Senate Bill 214 - Effective July 1, 2007

Subject: Independent Contractor Laws

Principle Effects of the Legislation:

- Allows a corporate officer and a manager of a manager-managed LLC to apply for an independent contractor exemption; clarifies that a corporate officer or a manager of a manager-managed LLC who obtains an independent contractor exemption certificate is

not considered an independent contractor under the unemployment insurance act (39-51-204 and 39-71-417, MCA).

Senate Bill 444 - *Effective October 1, 2007*

Subject: Treating Physician Definition regarding Advance Practice Registered Nurses

Principle Effects of the Legislation:

- Allows an Advance Practice Registered Nurse (APRN) to meet the definition of a "treating physician" regardless of whether or not a licensed physician is available within the area in which the APRN is located (39-71-116, MCA).

Workers' Compensation System

Declaration of Public Policy

**Insurance Coverage
Requirements**

Life of a Claim

**Workers' Compensation System
Administration**

Workers' Compensation Market

Declaration of Public Policy ¹

It is an objective of the Montana workers' compensation system to provide, without regard to fault, wage loss and medical benefits to a worker suffering from a work-related injury or disease. Wage loss benefits are not intended to make an injured worker whole; they are intended to assist the injured worker at a reasonable cost to the employer. Within that limitation, the wage-loss benefit should bear a reasonable relationship to actual wages lost as a result of a work-related injury or disease.

A worker's removal from the work force due to a work-related injury or disease has a negative impact on the injured worker, the injured worker's family, the employer, and the general public. Therefore, the main objective of the workers' compensation system is to return injured workers to work as soon as possible after suffering a work-related injury or disease.

Montana's workers' compensation and occupational disease insurance systems are intended to be primarily self-administering. Claimants should be able to obtain benefits speedily and employers should be able to provide coverage at reasonably constant rates. To meet these objectives, the system must be designed to minimize reliance upon lawyers and the courts to obtain benefits and interpret liabilities.

Title 39, chapters 71 and 72², MCA Workers' Compensation and Occupational Disease Acts, respectively, must be construed according to their terms and not liberally in favor of any party.

The legislature's intent regarding stress claims, often referred to as "mental-mental claims" and "mental-physical claims", does not allow for compensation under Montana's Workers' Compensation and Occupational Disease Acts. The legislature recognizes that these claims are difficult to verify objectively and that the claims have a potential to place an economic burden on the workers' compensation and occupational disease system. The legislature also recognizes that there are other states that do not provide compensation for various categories of stress claims and that stress claims have presented economic problems for certain other jurisdictions. The legislature has the authority to define the limits of the workers' compensation and occupational disease systems.

¹ §39-71-105, MCA (2003)

² Chapter 72 was repealed on July 1st, 2005

Insurance Coverage Requirements

If you are an employer or an employee, the Workers' Compensation and Occupational Disease Acts apply to you. An employer who has an employee in service under any appointment or contract of hire, expressed or implied, oral or written, must elect to be bound by the provisions of compensation Plan 1 (self-insured), Plan 2 (private insurance companies) or Plan 3 (Montana State Fund).

Employment Exempted

The Workers' Compensation and Occupational Disease Acts³ may not apply to any of the following employments:

- Household and domestic employment
- Casual employment
- Dependent member of an employer's family for whom an exemption may be claimed by the employer under the Federal Internal Revenue Code
- Sole proprietors, working members of a partnership, working members of a limited liability partnership, or working members of a member-managed limited liability company
- Real estate, securities or insurance salesperson paid solely by commission without a guarantee of minimum earnings
- A direct seller
- Employment for which a rule of liability for injury, occupational disease, or death is provided under the laws of the United States
- A person performing services in return for aid or sustenance only, except employment of volunteers
- Employment with a railroad engaged in interstate commerce, except railroad construction work
- An official, including a timer, referee, umpire or judge, at a school amateur athletic event
- A person performing services as a newspaper carrier or freelance correspondent
- Cosmetologist's services and barber's services
- A person who is employed by an enrolled tribal member or an association, business, corporation, or other entity that is at least 51% owned by an enrolled tribal member or members, whose business is conducted solely within the reservation
- A jockey who is performing under a license issued by the Board of Horse Racing, from the time the jockey reports to the scale room prior to a race through the time weighed out and has acknowledged in writing that jockey is not covered while performing services as a jockey
- Trainer, assistant trainer, exercise person or pony person who is providing services under the Board of Horse Racing while on the grounds of a licensed race meet
- An employer's spouse
- A petroleum land professional
- An officer of a quasi-public or a private corporation or manager of a manager-managed limited liability company
- A person who is an officer or a manager of a ditch company
- Service performed by an ordained, commissioned or licensed minister of a church
- Independent Contractors
- Providers of companionship services or respite care if a family member or legal guardian hires the person providing care.

³ MCA (2005)

Life of a Claim⁴

Accidents do happen and when a Montana worker files a workers' compensation claim, the life of that claim is dictated primarily by statute. Progress of a typical workers' compensation claim in Montana is determined by the following guidelines:

- Once the injury occurs, the injured worker or their authorized representative has 30 days from the date of injury to notify the employer (employer, managing agent or superintendent in charge of the work) or the insurer. [§39-71-603, MCA]
- The employer then has six days from date of notification of an injury to report the injury to the insurer or the DLI. [§39-71-307, MCA, and ARM 24.29.801]
- The claimant or the claimant's representative has 12 months from the date of injury to file a claim. [§39-71-601(1), MCA] The claim filing time can be extended up to an additional 24 months if it can be proven that the worker was somehow prevented from filing the claim because of something the employer or the insurer said or did, or if the injury was latent or the worker lacked knowledge of disability. [§39-71-601(2), MCA]
- The signed claim form or First Report of Injury and Occupational Disease (FROI) (form ERD-991) can be submitted to the employer or sent directly to the insurer, the adjuster or the DLI. [§39-71-601(1), MCA]
- The insurer/adjuster shall accept or deny a claim within 30 days of receipt of a signed claim for compensation by the claimant, the employer or the claimant's representative. If the claim is denied, the worker is notified in writing of the denial. [§39-71-606, MCA]
- If further investigation is needed before the insurer accepts liability and the 30 day limitation for a decision on compensability is due to expire, the insurer/adjuster may pay wage loss and/or medical benefits without such payment being an indication of admission of liability or waiver of any right of defense. [§§39-71-608 and 39-71-615, MCA]
- The first 4 days or 32 hours (whichever is less) of total wage loss is not compensable, but a claimant may use sick leave during this time. A claimant cannot use sick leave and receive wage loss benefits at the same time. [§39-71-736, MCA]
- In addition to using an emergency room or urgent care center, the claimant has the right to select the first treating physician (within the treating physician definition). The insurer must then approve changes of treating physicians. The insurer has the right to deny payment for any unauthorized medical referrals and treatments. [§39-71-1101, MCA, and ARM 24.29.1510]
- The physician bills the insurer/adjuster directly. Payment is made according to a fee schedule. [§39-71-704(2) and (3), MCA] Once the insurer has accepted a claim, the medical provider must accept the fee scheduled reimbursement, as payment in full and the claimant is not responsible for any balance.

⁴ MCA (2005)

- The claimant is responsible for payment of: (1) unauthorized treatment, (2) medical care not related to the injury, (3) medical services if treatment is not received for 60 months, (4) secondary medical services and palliative or maintenance care unless specifically covered, and (5) medical procedures specifically excluded. [ARM 24.29.1401 and §39-71-704, MCA]
- Temporary total disability (TTD) benefits are based on 66⅔% of the claimant's average weekly gross wages, subject to a maximum of the state's average weekly wage, and are paid bi-weekly until the claimant returns to work or has reached maximum medical improvement (MMI). [§§39-71-701 and 39-71-740, MCA] If the claimant is classified as permanently totally disabled (PTD), benefits can continue until the claimant reaches retirement age. [§39-71-710, MCA]
- If prior to attaining maximum medical improvement (MMI) and due to medical restrictions, the claimant returns to work at less than the wages received at the time of injury, they may be entitled to temporary partial disability (TPD) benefits. Temporary partial disability is limited to 26 weeks unless extended by the insurer. [§39-71-712, MCA]
- If after reaching MMI, the claimant has a residual impairment, greater than zero, the insurer is required to pay out the permanent partial disability (PPD) liability bi-weekly, unless the claimant requests a lump sum payment. [§§39-71-703 and 39-71-741, MCA]
- Other permanent partial disability liability is based on age, education, loss of earning capacity and work capacity restrictions. These criteria are determined based on the specifics of each individual case. [§39-71-703, MCA]
- If the worker is precluded from returning to the job they held at the time of injury and suffers an actual wage loss or has an impairment of 15% or greater, the worker is eligible for rehabilitation services. The insurer designates a rehabilitation provider and rehabilitation services are provided with the goal of returning the claimant to work as soon as possible. If a rehabilitation plan is established which indicates some type of retraining, the claimant may be eligible to receive monies for tuition, fees, books and other reasonable and necessary retraining expenses. The worker may also receive biweekly benefit payments based on the temporary total disability rate. [§39-71-1006, MCA] Financial assistance is also available for reasonable travel and relocation for training and job-related expenses, subject to a maximum amount of \$4,000. [§39-71-1025, MCA]
- Medical benefits may remain available for at least 60 months (5 years) from the last date of service. The insurer may not be required to furnish palliative or maintenance care after the claimant has achieved MMI. [§39-71-704(1)(e), MCA]

Workers' Compensation System Administration

ERD provides a wide variety of services and regulation related to workers' compensation and safety.

Workers' Compensation Regulation Bureau

The **Carrier Compliance Unit** monitors compliance of private workers' compensation carriers (Plan 2). The unit also licenses professional employer organizations and processes extraterritorial agreements.

The **Contractor Registration Unit** ensures construction businesses with employees register and are in compliance with workers' compensation requirements. The law provides protection from liability for workers' compensation claims for contractors who use the service of other registered construction contractors.

The **Independent Contractor Central Unit** issues decisions on employment relationships for the Department of Revenue, Labor Standards, Unemployment Insurance, Human Rights and Workers' Compensation. The unit also issues Independent Contractor (IC) Exemptions Certificates.

The **Medical Regulations Unit** develops fee schedules to provide an effective and equitable method of health care cost containment. Medical fee schedules are established by the unit and utilized by insurers to reimburse medical providers.

The **Self-Insurance Unit** administers a program of employers who elect to be self-insured for workers' compensation (Plan 1).

The **Subsequent Injury Fund Unit** certifies workers with permanent impairments that have a substantial obstacle to obtaining employment and administer the funds that are used to offset claim costs associated with subsequent injuries to these workers.

The **Uninsured Employers Fund Unit** makes sure employers and employees are protected under the Workers' Compensation and Occupational Disease Acts. The unit enforces coverage requirements for all employers, pays benefits to injured workers whose employers did not have workers' compensation coverage and manages the fund from which benefits are paid.

Workers' Compensation Claims Assistance Bureau

The **Claims Unit** ensures compliance with the Workers' Compensation and Occupational Disease Acts relating to benefits and claims. The unit also regulates attorney fees, administers the occupational disease evaluation process and provides assistance to insurers, attorneys and injured workers.

The **Data Management Unit** ensures compliance with claims reporting standards, maintains the workers' compensation database system and provides a comprehensive annual report on workers' compensation to the governor and the legislature.

The **Mediation Unit** provides an alternative method of resolving workers' compensation benefit disputes before the dispute goes to the Workers' Compensation Court. This is a mandatory, non-binding process.

Occupational Safety & Health Bureau

The **Occupational Safety & Health Bureau** conducts inspections of public employers, performs on-site consultations for private employers, and inspects coal mines and sand and gravel operations throughout the state. The Bureau provides safety and occupational health training for both public and private employers.

Workers' Compensation Market

Montana employers have options for obtaining workers' compensation coverage for their employees.

Employers with sufficient cash reserves may qualify as self-insured (Plan 1), either individually or by joining with other employers in their industry to form a self-insured group. Montana currently has 38 individual self-insured employers, three private groups (120 employers) and five public groups (404 employers).

Employers may obtain coverage with private insurance companies (Plan 2) in the voluntary market. During calendar year 2006, there were 470 private insurance companies who were authorized to write workers' compensation insurance in Montana.

Employers can insure through Montana State Fund (Plan 3). As the insurer of last resort, the Montana State Fund assures all Montana employers can provide workers' compensation insurance for their employees.

The changes in insurers' market share are reflected in the graphs and table below.

Exhibit 3.1
Gross Annual Payroll²
Plan 1 – By Calendar Year

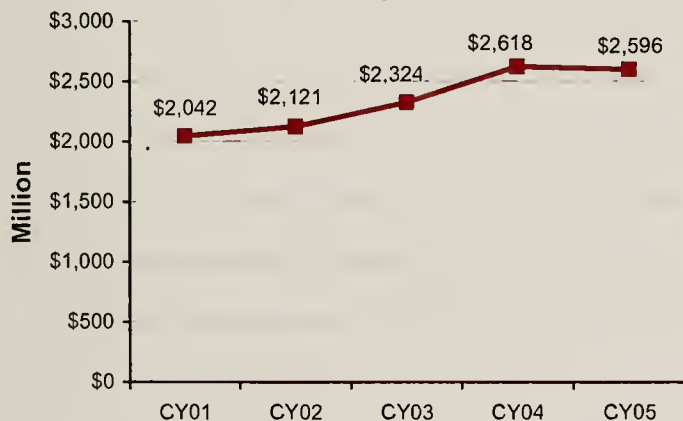


Exhibit 3.2
Premium Dollars
Plans 2 and 3 - By Calendar Year



Exhibit 3.3
Market Share
By Plan¹ and Calendar Year

Calendar Year	2001	2002	2003	2004	2005	2006
Plan 1 – Payroll	\$2,042,192,981	\$2,121,728,801	\$2,324,840,487	\$2,618,537,774	\$2,595,944,979	N/A ²
Plan 2 – Premium	\$72,431,388	\$81,725,533	\$85,081,186	\$92,915,175	\$93,774,300	\$110,681,919
Plan 3 – Premium	\$86,813,640	\$95,558,150	\$131,804,047	\$171,439,374	\$206,425,227	\$237,137,186

Note:

¹Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund

²Calendar year 2006 Gross Annual Payroll data was not available when this report was published.

Claim Statistics

**Comparison of Claims
by Plan Type**

Injured Worker Characteristics

Insurer Denial of Claims

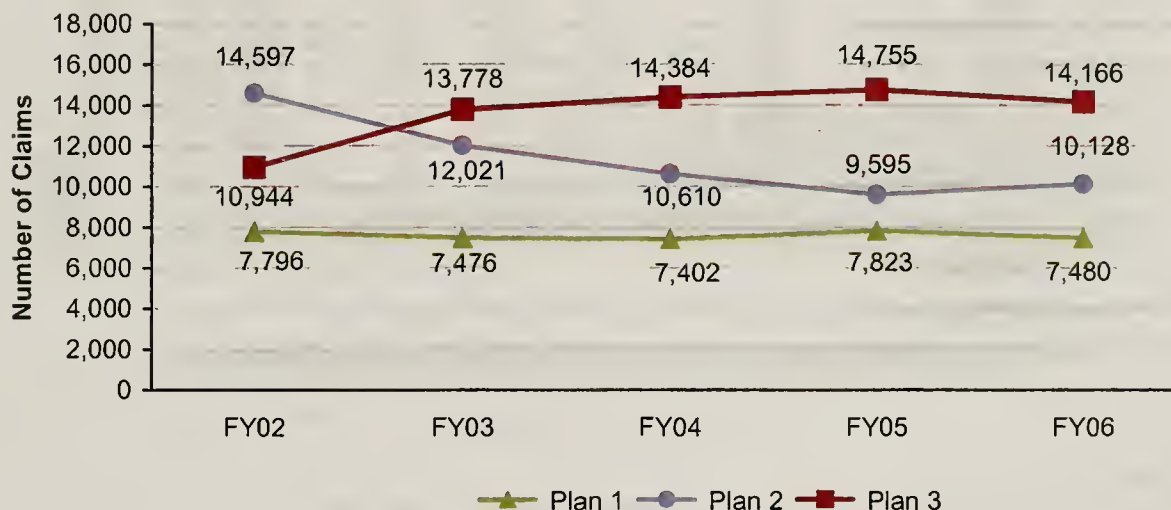
Fatal Occupational Injuries



Comparison of Claims by Plan Type

This section provides the most current summary available on reported claims through FY06. The information is based on First Reports of Injury and Occupational Disease received by the department. Both medical only and indemnity claims are included.

Exhibit 4.1
Reported Claims¹ - Five Year Trend
By Plan Type²



Notes:

¹Total claim numbers continually change due to reporting.

²Plan types: Plan 1 – Self Insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund.

Exhibit 4.2
Reported Claims¹
By Plan Type² and Fiscal Year of Injury

Plan Type	FY02		FY03		FY04		FY05		FY06	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Plan 1	7,796	23.3%	7,476	22.4%	7,402	22.8%	7,823	24.3%	7,480	23.5%
Plan 2	14,597	43.7%	12,021	36.1%	10,610	32.7%	9,595	29.8%	10,128	31.8%
Plan 3	10,944	32.8%	13,778	41.3%	14,384	44.3%	14,755	45.8%	14,166	44.4%
UEF	67	0.2%	50	0.2%	67	0.2%	72	0.2%	115	0.4%
Total	33,404	100%	33,325	100%	32,463	100%	32,245	100%	31,889	100%

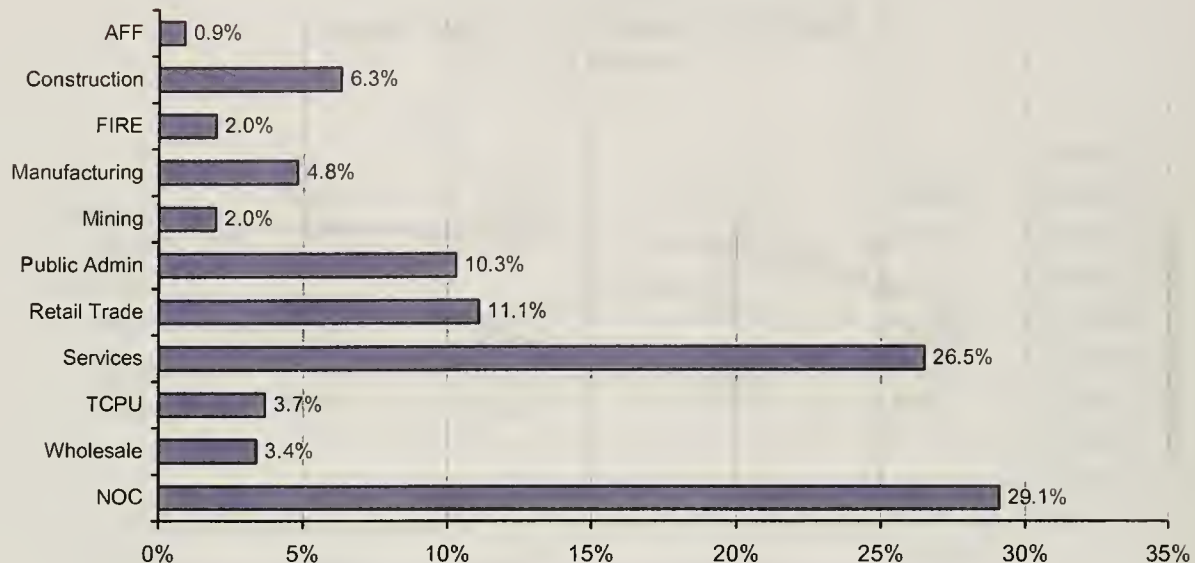
Notes:

¹Total claim numbers continually change due to reporting.

²Plan types: Plan 1 – Self Insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund.

Injured Worker Characteristics

Exhibit 4.3
Reported Claims - FY06
By Standard Industrial Classification Major Groups¹



Notes:

¹Source: Office of Management and Budget, *Standard Industrial Classification Manual 1987*.

AFF means Agriculture, Forestry and Fishing.

FIRE means Finance, Insurance and Real Estate.

TCPU means Transportation, Communication and Public Utilities.

NOC means Not Otherwise Classified.

Exhibit 4.4
Reported Claims¹
By Standard Industrial Classification Major Groups² and Fiscal Year of Injury

Standard Industrial Classification	FY02		FY03		FY04		FY05		FY06	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Agriculture, Forestry & Fishing (AFF)	371	1.1%	431	1.3%	356	1.1%	341	1.1%	287	0.9%
Construction	2,263	6.8%	2,112	6.3%	1,989	6.1%	1,848	5.7%	2,010	6.3%
Finance, Insurance & Real Estate (FIRE)	597	1.8%	732	2.2%	679	2.1%	643	2.0%	640	2.0%
Manufacturing	2,419	7.2%	2,195	6.6%	1,800	5.5%	1,581	4.9%	1,536	4.8%
Mining	557	1.7%	479	1.4%	613	1.9%	647	2.0%	630	2.0%
Public Administration	3,762	11.3%	3,651	11.0%	3,181	9.8%	3,417	10.6%	3,272	10.3%
Retail Trade	4,692	14.0%	4,350	13.1%	4,387	13.5%	3,955	12.3%	3,528	11.1%
Services	8,037	24.1%	8,483	25.5%	8,347	25.7%	8,775	27.2%	8,460	26.5%
Transportation, Communication & Public Utilities (TCPU)	1,419	4.2%	1,303	3.9%	1,201	3.7%	1,130	3.5%	1,183	3.7%
Wholesale Trade	1,415	4.2%	1,385	4.2%	1,236	3.8%	1,176	3.6%	1,072	3.4%
NOC ³	7,872	23.6%	8,204	24.6%	8,674	26.7%	8,732	27.1%	9,271	29.1%
Total	33,404	100%	33,325	100%	32,463	100%	32,245	100%	31,889	100%

Notes:

¹Some counts may vary slightly from previous reports due to corrections from insurers.

²Source: Office of Management and Budget, *Standard Industrial Classification Manual 1987*.

³NOC means Not Otherwise Classified.

Exhibit 4.5
Reported Claims - FY06
 By Standard Industrial Classification Major Groups¹ and Gender

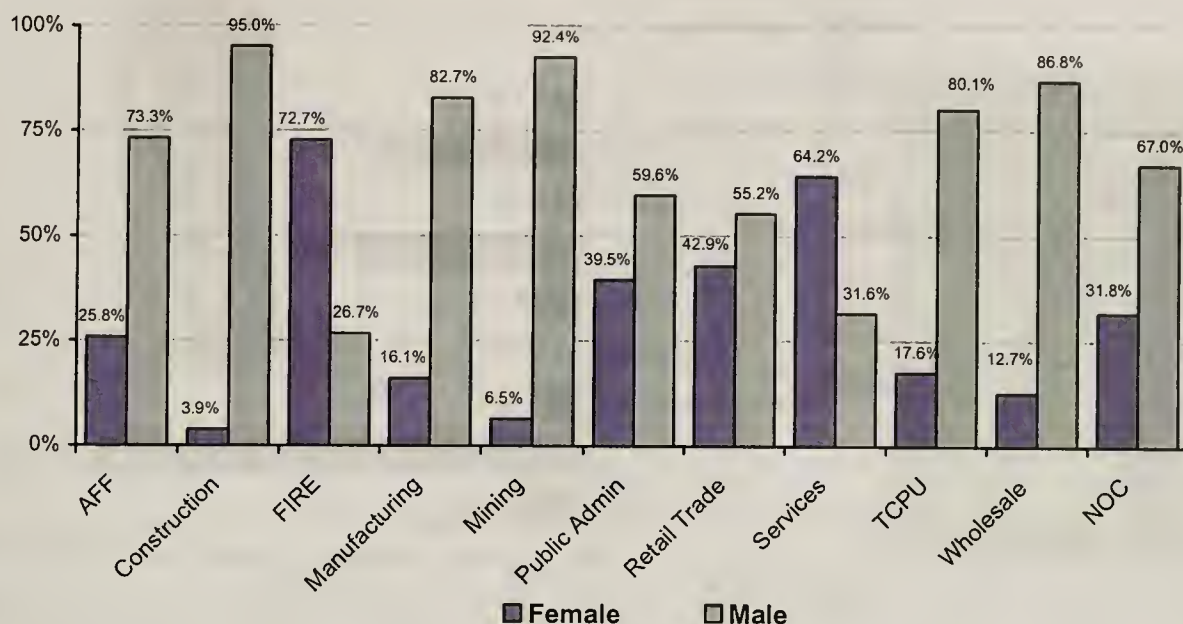


Exhibit 4.6
Reported Claims - FY06
 By Standard Industrial Classification Major Groups¹ and Gender

Standard Industrial Classification	Female		Male		Not Reported		Total	
	Count	Percent ²	Count	Percent ²	Count	Percent ²	Count	Percent ²
Agriculture, Forestry & Fishing (AFF)	74	25.8%	210	73.2%	3	1.0%	287	100%
Construction	79	3.9%	1,910	95.0%	21	1.0%	2,010	100%
Finance, Insurance & Real Estate (FIRE)	465	72.7%	171	26.7%	4	0.6%	640	100%
Manufacturing	248	16.1%	1,270	82.7%	18	1.2%	1,536	100%
Mining	41	6.5%	582	92.4%	7	1.1%	630	100%
Public Administration	1,293	39.5%	1,950	59.6%	29	0.9%	3,272	100%
Retail Trade	1,513	42.9%	1,946	55.2%	69	2.0%	3,528	100%
Services	5,429	64.2%	2,676	31.6%	355	4.2%	8,460	100%
Transportation, Communication and Public Utilities (TCPU)	208	17.6%	948	80.1%	27	2.3%	1,183	100%
Wholesale Trade	136	12.7%	931	86.8%	5	0.5%	1,072	100%
NOC ² SIC codes	2,946	31.8%	6,214	67.0%	111	1.2%	9,271	100%
Total	12,432	39.0%	18,808	59.0%	649	2.0%	31,889	100%

Notes:

¹Source: Office of Management and Budget, *Standard Industrial Classification Manual* 1987.

²Percentages based on total claims per SIC code, including female, male, and "Not Reported" gender types.

Exhibit 4.7
Reported Claims - FY06
By Nature of Injury¹

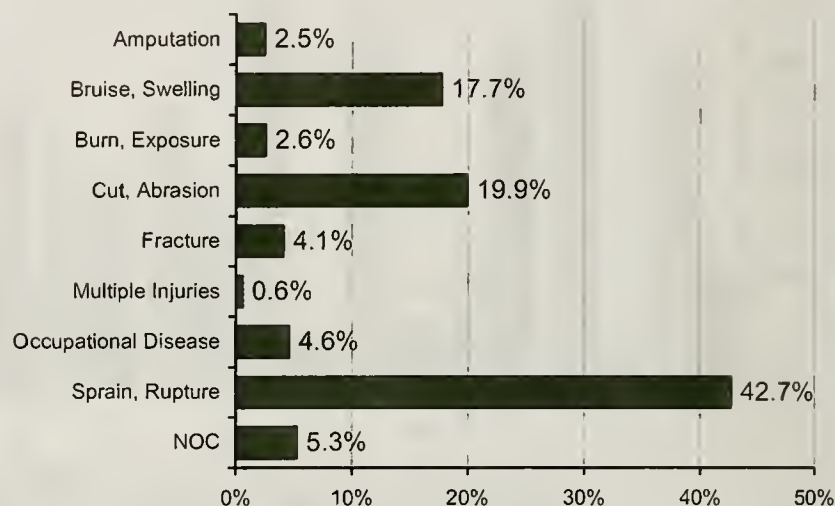


Exhibit 4.8
Reported Claims
By Nature of Injury¹ and Fiscal Year of Injury

Nature of Injury	FY02		FY03		FY04		FY05		FY06	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Amputation	657	2.0%	783	2.3%	788	2.4%	831	2.6%	800	2.5%
Bruise, Swelling	5,092	15.2%	5,536	16.6%	5,453	16.8%	5,557	17.2%	5,652	17.7%
Burn, Exposure	929	2.8%	775	2.3%	822	2.5%	846	2.6%	814	2.6%
Cut, Abrasion	6,776	20.3%	6,614	19.8%	6,424	19.8%	6,238	19.3%	6,350	19.9%
Fracture	1,437	4.3%	1,451	4.4%	1,364	4.2%	1,330	4.1%	1,318	4.1%
Multiple Injuries	251	0.8%	226	0.7%	219	0.7%	213	0.7%	190	0.6%
Occupational Disease	1,826	5.5%	1,827	5.5%	1,660	5.1%	1,724	5.3%	1,454	4.6%
Sprain, Rupture	14,259	42.7%	14,502	43.5%	14,433	44.5%	14,039	43.5%	13,618	42.7%
NOC ²	2,177	6.5%	1,611	4.8%	1,300	4.0%	1,467	4.5%	1,693	5.3%
Total	33,404	100%	33,325	100%	32,463	100%	32,245	100%	31,889	100%

Notes:

¹Source: International Association of Industrial Accident Boards and Commissions (IAIABC).

²NOC means Not Otherwise Classified.

Exhibit 4.9

Reported Claims - FY06 By Cause of Injury¹

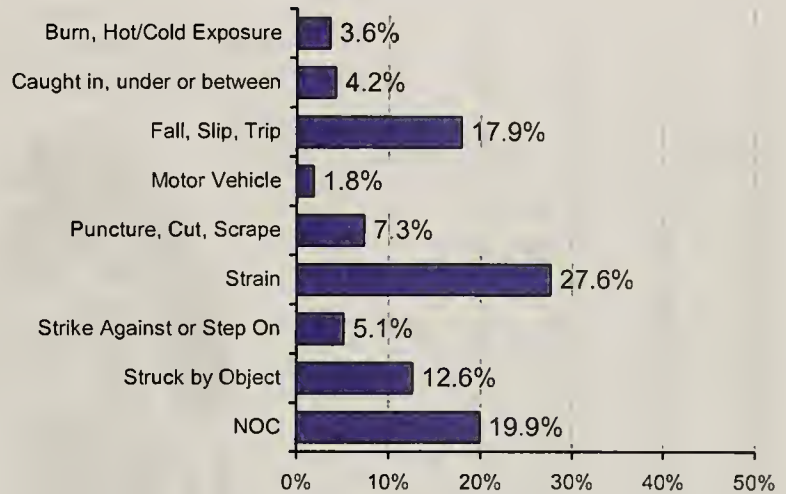


Exhibit 4.10

Reported Claims By Cause of Injury¹ and Fiscal Year of Injury

Cause of Injury	FY02		FY03		FY04		FY05		FY06	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Burn, Hot/Cold Exposure	1,424	4.3%	1,273	3.8%	1,319	4.1%	1,382	4.3%	1,140	3.6%
Caught In, Under or Between	1,408	4.2%	1,614	4.8%	1,519	4.7%	1,482	4.6%	1,345	4.2%
Fall, Slip, Trip	5,907	17.7%	5,995	18.0%	6,031	18.6%	5,875	18.2%	5,700	17.9%
Motor Vehicle	597	1.8%	578	1.7%	641	2.0%	568	1.8%	569	1.8%
Puncture, Cut, Scrape	2,699	8.1%	2,317	7.0%	2,142	6.6%	2,199	6.8%	2,343	7.3%
Strain, Jump, Lift	10,124	30.3%	10,202	30.6%	9,639	29.7%	9,737	30.2%	8,807	27.6%
Strike Against or Step On	1,996	6.0%	1,913	5.7%	2,009	6.2%	1,800	5.6%	1,628	5.1%
Struck by Object	4,571	13.7%	4,627	13.9%	4,559	14.0%	4,644	14.4%	4,024	12.6%
NOC ²	4,678	14.0%	4,806	14.4%	4,604	14.2%	4,558	14.1%	6,333	19.9%
Total	33,404	100%	33,325	100%	32,463	100%	32,245	100%	31,889	100%

Exhibit 4.11

Reported Claims - FY06 By Industry and Cause of Injury¹

Industry	Burn Hot/Cold Exposure	Caught in, Under or Between	Fall, Slip, Trip	Motor Vehicle	Puncture, Cut, Scrape	Strain, Jump, Lift	Strike Against or Step on	Struck by Object	All Others	NOC	Totals
AFF	2.4%	8.0%	14.3%	2.1%	3.8%	15.0%	5.9%	20.9%	27.2%	0.3%	100%
Construction	2.0%	4.7%	15.0%	2.0%	8.1%	24.7%	5.9%	11.6%	25.2%	0.8%	100%
FIRE	3.0%	3.4%	20.6%	1.6%	3.1%	25.8%	4.8%	9.1%	27.3%	1.3%	100%
Manufacturing	2.9%	8.0%	9.8%	1.2%	7.0%	29.3%	4.6%	12.1%	24.7%	0.5%	100%
Mining	4.9%	7.9%	11.9%	4.1%	4.6%	26.0%	6.3%	17.5%	16.3%	0.3%	100%
Public Agencies	6.0%	2.9%	18.2%	2.1%	3.1%	23.3%	4.8%	19.6%	19.8%	0.2%	100%
Retail Trade	4.4%	3.7%	16.9%	1.1%	11.6%	31.5%	5.7%	9.7%	14.4%	1.0%	100%
Services	3.1%	3.4%	21.3%	1.6%	8.9%	28.6%	4.5%	12.6%	15.8%	0.2%	100%
TCPU	2.1%	3.9%	19.0%	3.2%	5.2%	33.0%	5.6%	14.9%	12.9%	0.3%	100%
Wholesale Trade	1.7%	4.9%	15.0%	2.1%	5.9%	31.1%	5.8%	11.4%	21.1%	1.0%	100%
Not Reported	3.7%	4.6%	17.5%	1.7%	6.7%	26.6%	5.2%	11.2%	21.5%	1.3%	100%
% of Total Injuries	3.6%	4.2%	17.9%	1.8%	7.3%	27.6%	5.1%	12.6%	19.2%	0.7%	100%

Notes:

¹Source: International Association of Industrial Accident Boards and Commissions (IAIABC).²NOC means Not Otherwise Classified.

Exhibit 4.12
Reported Claims – FY06
By Part of Body¹

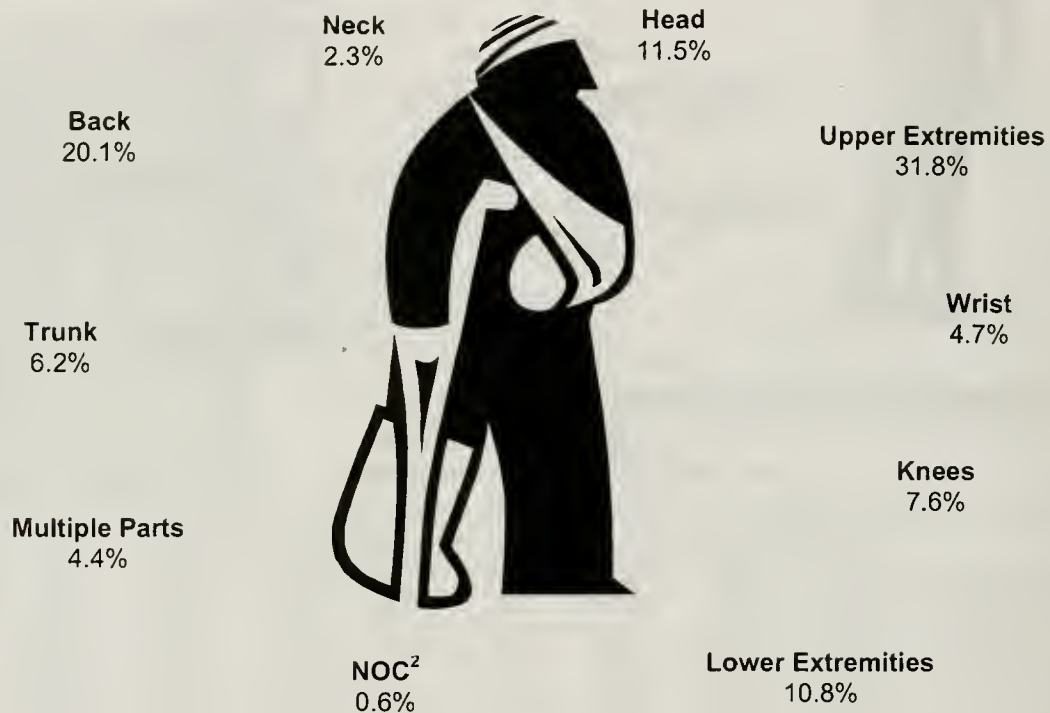


Exhibit 4.13
Reported Claims
By Part of Body¹ and Fiscal Year of Injury

Part of Body	FY02		FY03		FY04		FY05		FY06	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Back	6,600	19.8%	6,649	20.0%	6,591	20.3%	6,516	20.2%	6,404	20.1%
Head	3,810	11.4%	3,780	11.3%	3,651	11.2%	3,530	10.9%	3,657	11.5%
Knees	2,332	7.0%	2,477	7.4%	2,559	7.9%	2,425	7.5%	2,430	7.6%
Lower Extremities	3,514	10.5%	3,585	10.8%	3,445	10.6%	3,535	11.0%	3,459	10.8%
Multiple Parts	1,843	5.5%	1,652	5.0%	1,370	4.2%	1,657	5.1%	1,412	4.4%
Neck	762	2.3%	830	2.5%	811	2.5%	784	2.4%	723	2.3%
Trunk	2,111	6.3%	2,089	6.3%	2,098	6.5%	2,131	6.6%	1,973	6.2%
Upper Extremities	10,553	31.6%	10,420	31.3%	10,125	31.2%	9,893	30.7%	10,137	31.8%
Wrist	1,687	5.1%	1,643	4.9%	1,622	5.0%	1,528	4.7%	1,495	4.7%
All Other Claims, NOC ²	192	0.6%	200	0.6%	191	0.6%	246	0.8%	199	0.6%
Total	\$33,404	100%	\$33,325	100%	\$32,463	100%	\$32,245	100%	\$31,889	100%

Notes:

¹Source: International Association of Industrial Accident Boards and Commissions (IAIABC).

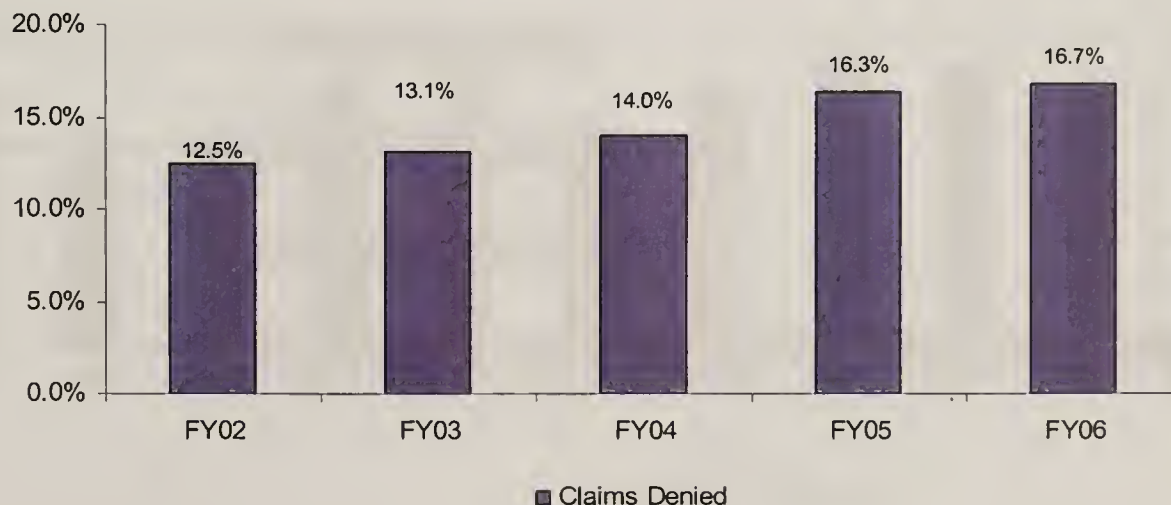
²NOC means Not Otherwise Classified.

Insurer Denial of Claims

Exhibit 4.14
Insurer Denial of Claims¹
By Reason of Denial and Fiscal Year of Injury

Reason for Claim Denial		FY02	FY03	FY04	FY05	FY06
Coverage Issue	Corporate officer rejected	1	1	3	5	0
	Elects no coverage	2	4	3	1	3
	Independent Contractor issue	2	1	2	3	2
	Question which insurer liable	20	19	18	9	6
Definition of Injury	No coverage	16	9	22	12	37
	Heart attack - not caused by accident	13	11	16	22	4
	Does not meet definition of injury	403	503	308	499	277
	Does not meet definition of Occupational Disease	68	70	76	72	29
Insufficient Information	Stress - not compensable	29	27	27	19	17
	Incomplete or missing information necessary to accept liability	117	55	51	96	140
	Late Claim Filing	69	87	81	68	82
	Occupational Disease	2	1	0	0	1
No Employer Notice	No 30-day notice to employer or insurer	149	146	201	197	157
Not in Course & Scope	Not in course and scope of employment	225	261	361	385	358
	No objective medical findings to substantiate injury	2,601	2,777	2,974	3,448	3,839
Other	Other	466	383	395	429	389
Total		4,183	4,355	4,538	5,265	5,341

Exhibit 4.15
Insurer Denial of Claims¹
By Percent and Fiscal Year of Injury



Note:

¹The insurer may later accept claims initially denied. Statistics on accepted injuries subsequent to a denial are not currently available. Only denials of claims for which ERD has received a FROI are used in these calculations.

Fatal Occupational Injuries-2005

an excerpt from the 2005 Census of Fatal Occupational Injuries¹

Thousands of workers in Montana are injured each year in work-related accidents. Some of these result in death. Many of the accidents could have been avoided if the employers and employees involved took proper safety measures to prevent them.

This report provides information gathered by the Census of Fatal Occupational Injuries (CFOI) program, Research and Analysis Bureau, DLI, on fatal occupational accidents that occurred in Montana during calendar year 2005. The Occupational Safety and Health Act of 1970, and Title 29, Part 1904 of the Code of Federal Regulations state:

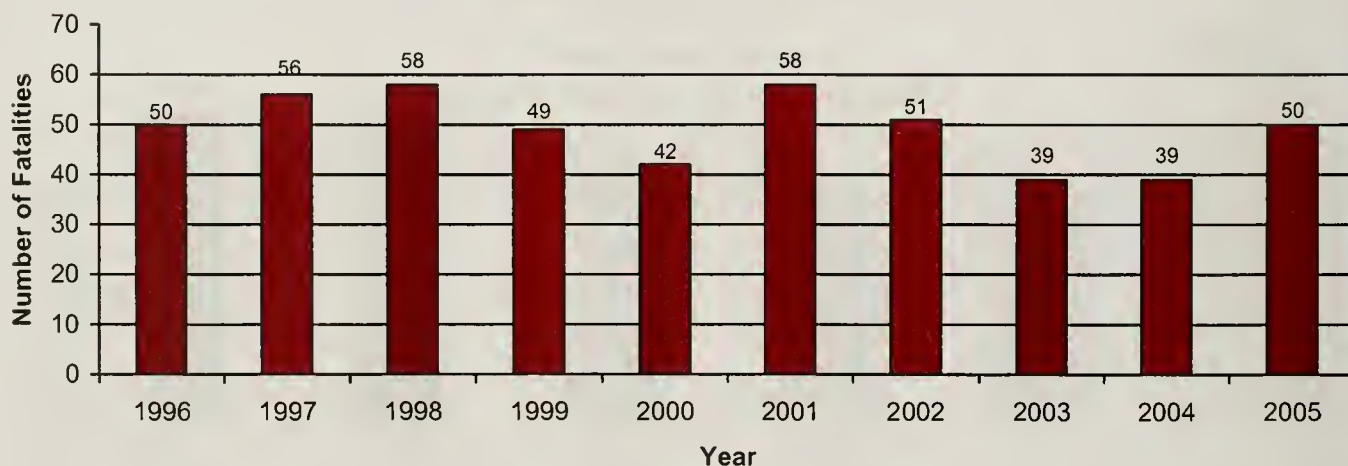
Within 8 hours after the occurrence of an employment accident which is fatal to one or more employees, or which results in hospitalization of three or more employees, the employer of any employees so injured or killed shall report the accident either orally or in writing to the nearest office of the Area Director of the Occupational Safety and Health Administration, U.S. Department of Labor. The reporting may be by telephone. The report shall relate the circumstances of the accident, the number of fatalities, and the extent of any injuries. The Area Director may require such additional reports in writing or otherwise, as they deem necessary, concerning the accident.

Summary

Overall, there were a total of 50 job-related fatalities in Montana in 2005. The following chart shows Occupational Fatalities per year, for ten years.

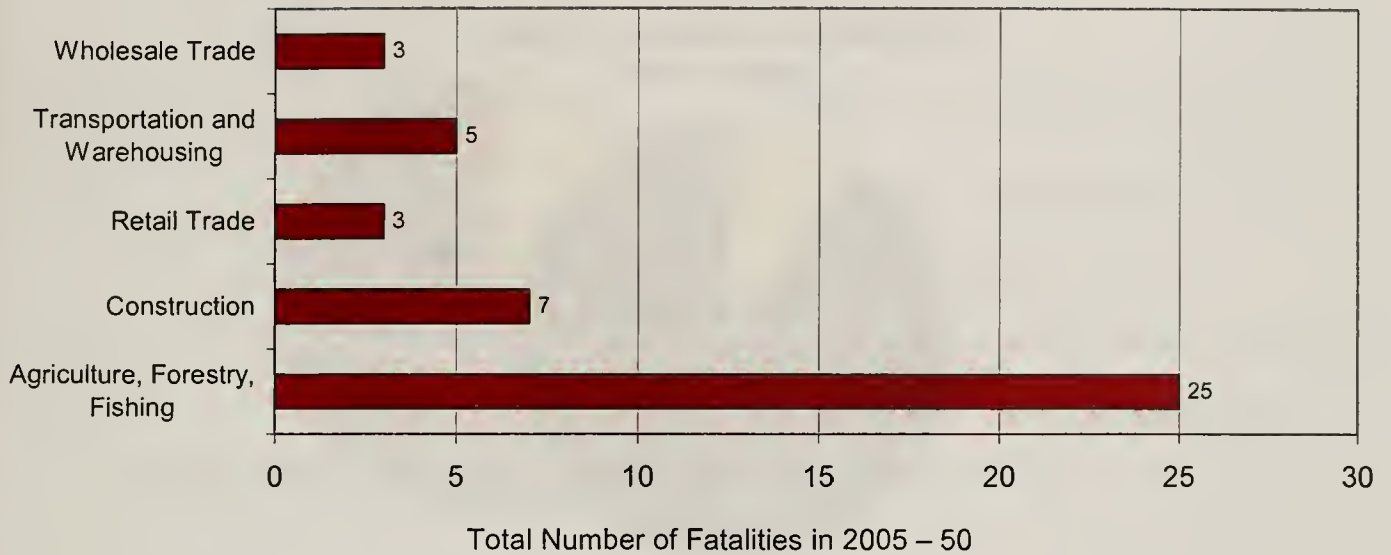
Exhibit 4.16

Occupational Fatalities - Ten Year Comparison



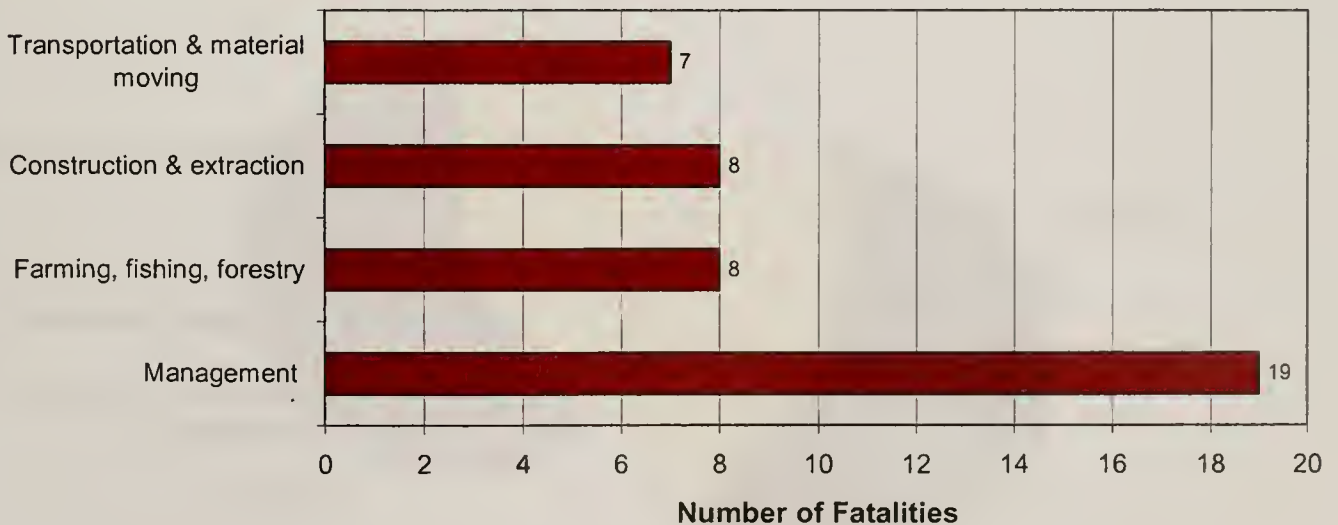
¹ This report was published by the DLI, Research and Analysis Bureau. The complete report may be viewed at: <http://www.ourfactsyourfuture.org/> under 'Publications and Articles'.

Exhibit 4.17
Fatal Work Injuries in Selected Industries:
Montana 2005



Totals include data for Fatalities by Industry not shown separately, that do not meet publication criteria.

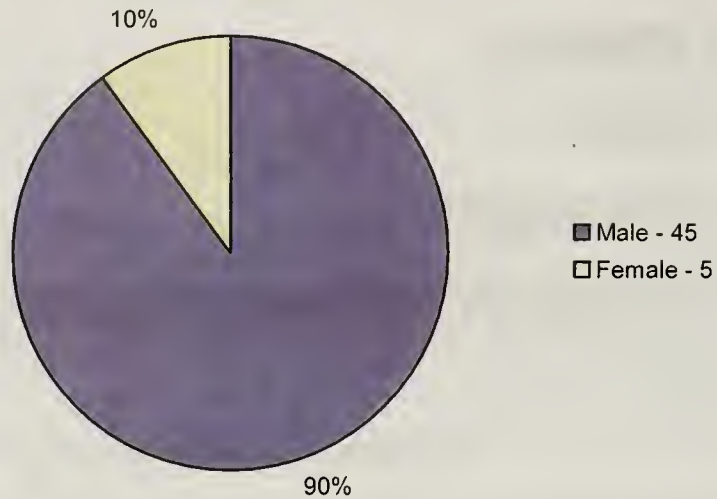
Exhibit 4.18
Occupations with the Largest Number of Fatalities:
Montana 2005



Total Number of Fatalities in 2005 – 50

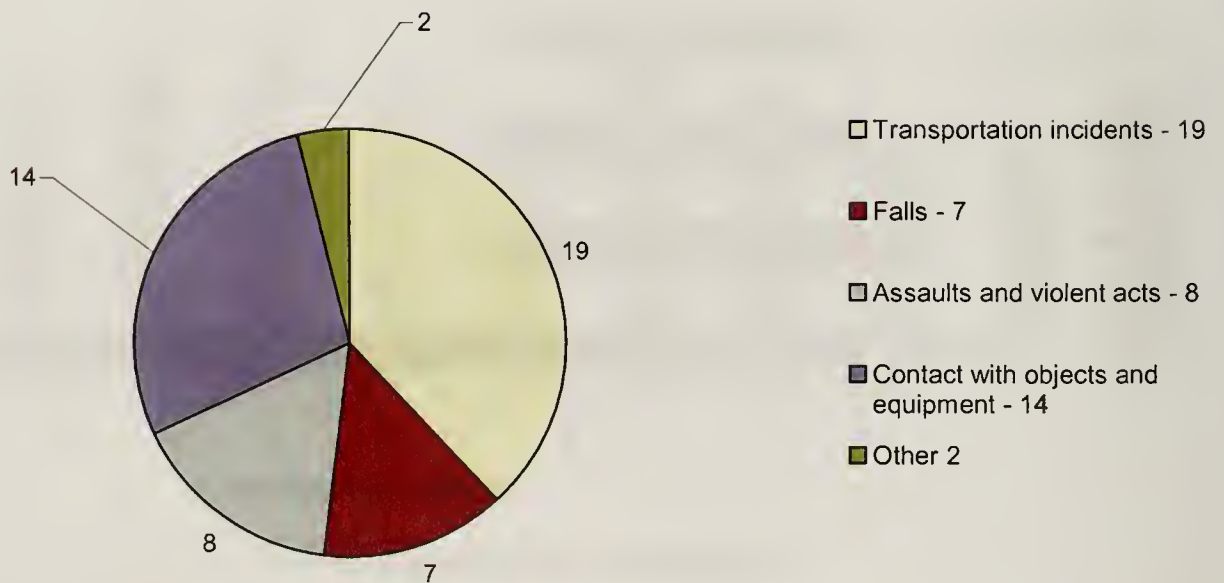
Totals include data for Fatalities by Industry not shown separately, that do not meet publication criteria.

Exhibit 4.19
Occupational Fatalities by Gender:
Montana 2005



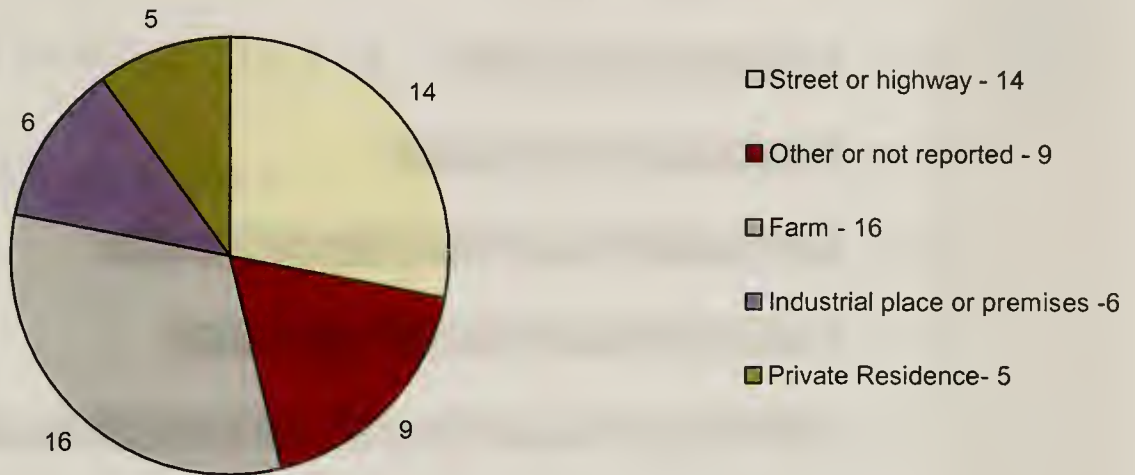
Total number of Fatalities in 2005 – 50

Exhibit 4.20
Workplace Fatalities by Event or Exposure:
Montana 2005



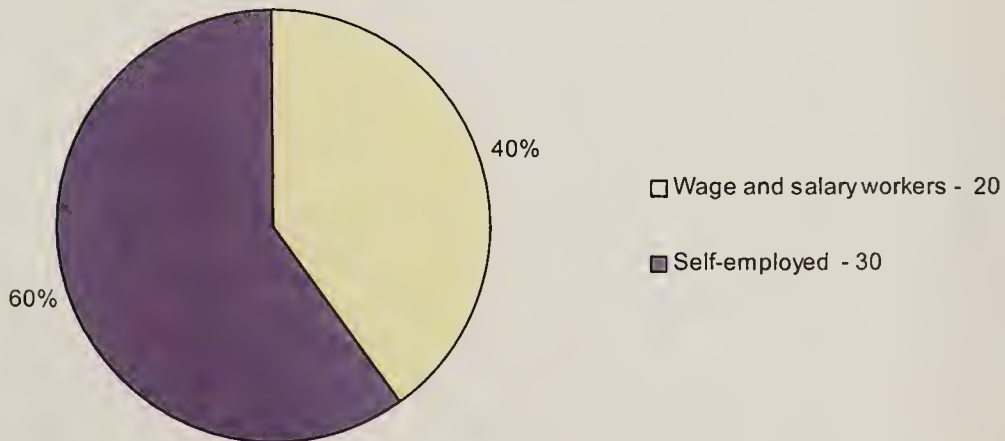
Total number of Fatalities in 2005 – 50

Exhibit 4.21
Fatal Work Injuries by Location:
Montana 2005



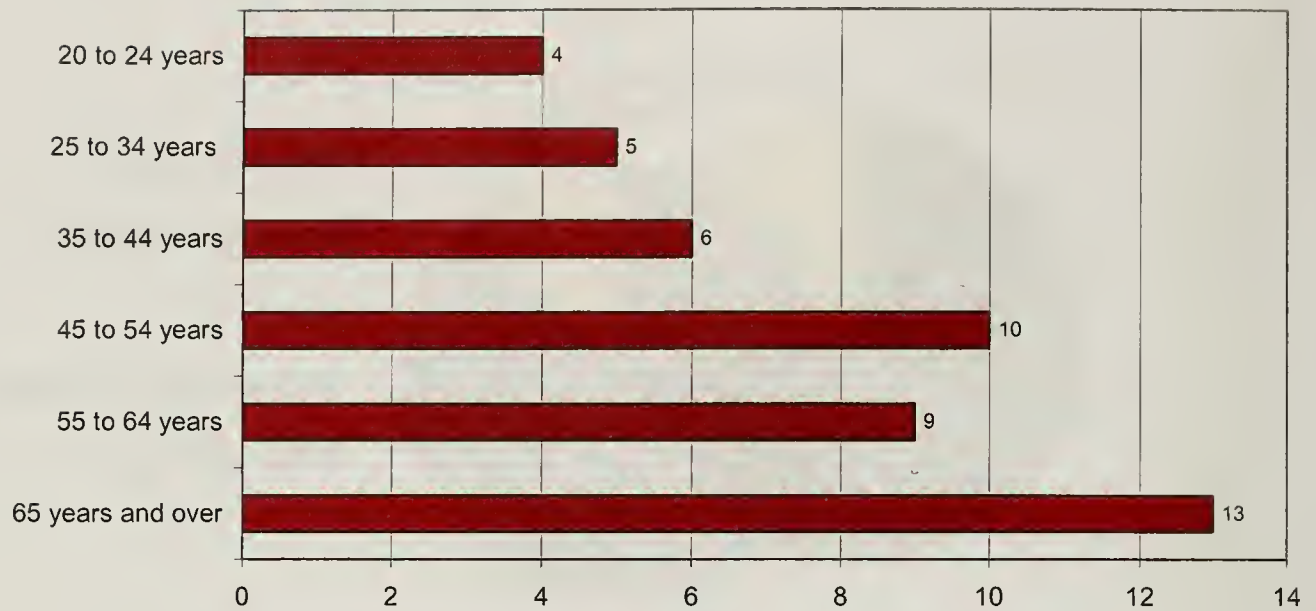
Total number of Fatalities in 2005 – 50

Exhibit 4.22
Occupational Fatalities by Employee Status:
Montana 2005



Total number of Fatalities in 2005 – 50

Exhibit 4.23
Occupational Fatalities by Age:
Montana 2005



Total Number of Fatalities in 2005 – 50

Totals include data for Fatalities by Industry not shown separately, that do not meet publication criteria.

Total Benefits

Benefit Report Data

Settlement Dollars

Attorney Fees

Total Benefits

The information below is compiled from expenditure reports submitted to the DLI by workers' compensation insurers and claims administrators. The dollar amounts provided below are the total dollars insurers reported they paid in a fiscal year for indemnity¹ and medical benefits regardless of any and all dates of injury. The dollar amounts are not based on claim year or the date of the injury. Readers should be aware that prior years' benefit totals have been updated since the publication of previous annual reports due to the receipt of amended expenditure reports.

Exhibit 5.1
Total Benefits Paid - FY06
By Plan Type¹

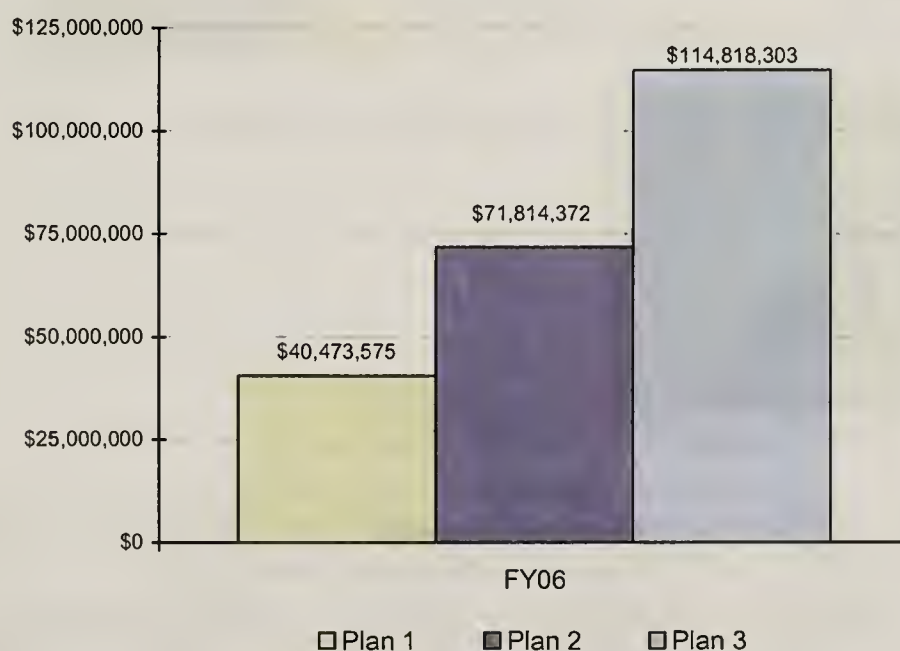


Exhibit 5.2
Total Benefits Paid
By Plan Type² and Fiscal Year of Payment

Plan Type ²	FY02	FY03	FY04	FY05	FY06
Plan 1	31,865,950	34,866,131	39,687,598	39,444,731	40,473,575
Plan 2	69,983,989	73,889,121	67,663,530	69,163,421	71,814,372
Plan 3	75,735,063	91,798,520	103,416,233	101,699,733	114,818,303
Total²	\$177,585,002³	\$200,553,772	\$210,767,361	\$210,307,885	\$227,106,250

Notes:

¹An "indemnity claim" is a workers' compensation injury or occupational disease claim where wage loss benefits, in addition to medical benefits, are currently being paid or are likely to be paid in the future.

²Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund

²Total benefits represent indemnity and medical, from DLI Quarterly Expenditure Reports as of 04-23-2007.

³FY02 Total Benefits Paid was corrected in this year's report.

Exhibit 5.3
Medical Payments - FY06
By Plan Type¹

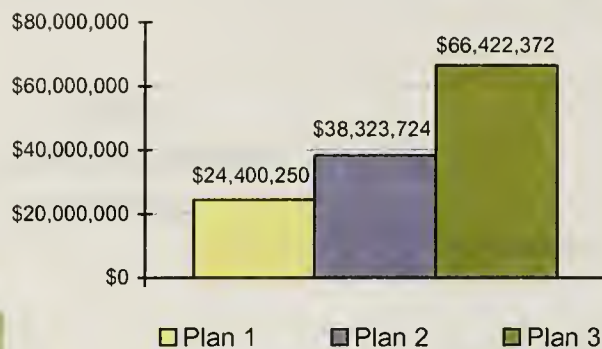


Exhibit 5.4
Medical Payments
By Plan Type¹ and Fiscal Year of Payment

Plan Type ¹	FY02	FY03	FY04	FY05	FY06
Plan 1	17,626,880	19,960,057	22,770,056	23,118,835	24,400,250
Plan 2	36,012,896	37,705,229	34,524,486	35,707,234	38,323,724
Plan 3	40,571,820	51,404,831	58,018,771	55,579,237	66,422,372
Total²	\$94,211,596	\$109,070,117	\$115,313,313	\$114,405,306	\$129,337,921

Notes:

¹Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund

²Total benefits represent medical payments, from DLI Quarterly Expenditure Reports as of 02-14-2007.

Exhibit 5.5
Indemnity Payments - FY06
By Plan Type¹

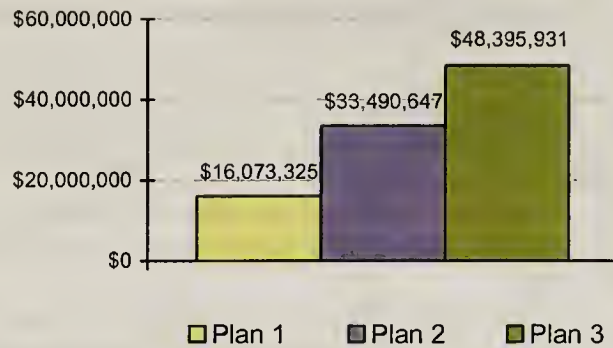


Exhibit 5.6
Indemnity Payments
By Plan Type¹ and Fiscal Year of Payment

Plan Type ¹	FY02	FY03	FY04	FY05	FY06
Plan 1	14,239,070	14,906,074	16,917,542	16,325,896	16,073,325
Plan 2	33,971,093	36,183,892	33,139,044	33,456,187	33,490,647
Plan 3	35,163,243	40,393,689	45,397,462	46,120,496	48,395,931
Total²	\$83,373,406	\$91,483,655	\$95,454,048	\$95,902,579	\$97,959,903

Notes:

¹Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund

²Total benefits represent indemnity payments, from DLI Quarterly Expenditure Reports as of 04-23-2007.

Benefit Report Data

ERD annually derives statistics on the wage loss and medical benefits paid to injured workers. The statistics are intended to display the developing costs of claims. In this section the statistics for the compiled benefit information are presented in tables which detail the cumulative costs of claims over the past six fiscal years¹ (FY), beginning with injuries sustained in FY01.

- Exhibits 5.7 and 5.8 report total wage loss benefits and medical benefits.
- Exhibits 5.9 through 5.12 report indemnity benefits individually by the four primary categories: temporary total disability, temporary partial disability, permanent partial disability, and permanent total disability.
- Exhibits 5.13 through 5.15 report medical benefits individually by the three primary categories (excluding lump sum payments): payments to physicians, hospital costs, and other medical provider costs.
- Exhibit 5.16 reports a combined total of the data contained in tables 5.13 through 5.15.
- Exhibits 5.17 and 5.18 report lump sum payments of wage replacement benefits and medical benefits.
- Exhibit 5.19 reports vocational rehabilitation benefits paid.

Each table consists of six rows of data; each row holds information pertaining only to injuries sustained during the fiscal year shown in the "Injury Year" column. The "First Year" column presents the number of claims receiving the given benefit type within one year of the date on which the injury occurred; it also gives the average and median² benefits paid on those claims. The "Second Year" through "Sixth Year" columns report cumulative claim totals, average benefits, and median benefits paid within the respective number of years from the date of injury.

A detailed explanation, including an example, of the development and use of these benefit statistics is provided in the methodology section (p.88). This year the ERD improved methodology for analyzing and reporting benefit information. Readers should be aware that these improvements may have significantly affected the reported statistics, and comparisons to prior years' annual reports may not be valid.

Notes:

¹ Fiscal Year (FY) is defined as July 1 through June 30; FY06 ended on June 30, 2006

² See definition of "median" in the "Definitions" section of the Appendices

Exhibit 5.7

Total Wage Replacement: TTD, TPD, PTD, PPD, including Lump Sums							
(Cumulative Totals)							
Injury Year	Category	First Year	Second Year	Third Year	Fourth Year	Fifth Year	Sixth Year
2006	# of Cases	3591					
	Avg Cost/Case	\$4,247					
	Median	\$1,591					
2005	# of Cases	4483	4716				
	Avg Cost/Case	\$4,862	\$7,116				
	Median	\$1,767	\$2,181				
2004	# of Cases	4641	5093	5162			
	Avg Cost/Case	\$4,513	\$7,282	\$7,932			
	Median	\$1,714	\$2,157	\$2,290			
2003	# of Cases	4375	4876	4985	5012		
	Avg Cost/Case	\$4,301	\$7,804	\$9,207	\$9,629		
	Median	\$1,679	\$2,483	\$2,546	\$2,622		
2002	# of Cases	4097	4559	4688	4731	4744	
	Avg Cost/Case	\$4,035	\$7,283	\$8,822	\$9,373	\$9,686	
	Median	\$1,656	\$2,437	\$2,669	\$2,812	\$2,819	
2001	# of Cases	3713	4125	4233	4295	4315	4320
	Avg Cost/Case	\$4,140	\$7,250	\$8,851	\$9,854	\$10,406	\$10,397
	Median	\$1,815	\$2,537	\$2,948	\$3,061	\$3,065	\$3,058

SOURCE: Data provided by State of Montana WCAP database

Exhibit 5.8

Total Medical Costs, including Lump Sums							
(Cumulative Totals)							
Injury Year	Category	First Year	Second Year	Third Year	Fourth Year	Fifth Year	Sixth Year
2006	# of Cases	3401					
	Avg Cost/Case	\$5,252					
	Median	\$2,056					
2005	# of Cases	4220	4624				
	Avg Cost/Case	\$6,854	\$9,517				
	Median	\$3,497	\$4,598				
2004	# of Cases	3873	4819	5005			
	Avg Cost/Case	\$5,871	\$8,810	\$10,098			
	Median	\$3,081	\$4,678	\$4,923			
2003	# of Cases	3386	4320	4777	4904		
	Avg Cost/Case	\$5,628	\$9,176	\$10,678	\$11,373		
	Median	\$3,020	\$4,801	\$5,259	\$5,359		
2002	# of Cases	3431	4038	4340	4577	4696	
	Avg Cost/Case	\$6,011	\$9,031	\$10,759	\$11,567	\$12,183	
	Median	\$2,889	\$4,425	\$4,835	\$4,991	\$5,146	
2001	# of Cases	3305	3846	3989	4134	4356	4571
	Avg Cost/Case	\$5,361	\$7,983	\$9,567	\$10,658	\$11,538	\$11,971
	Median	\$2,787	\$4,100	\$4,441	\$4,680	\$4,868	\$4,850

SOURCE: Data provided by State of Montana WCAP database

Exhibit 5.9

Wage Replacement: Temporary Total Disability, including Lump Sums							
(Cumulative Totals)							
Injury Year	Category	First Year	Second Year	Third Year	Fourth Year	Fifth Year	Sixth Year
2006	# of Cases	3304					
	Avg Cost/Case	\$3,029					
	Median	\$1,190					
2005	# of Cases	4039	4190				
	Avg Cost/Case	\$3,172	\$4,455				
	Median	\$1,252	\$1,476				
2004	# of Cases	4110	4356	4393			
	Avg Cost/Case	\$3,206	\$4,555	\$5,058			
	Median	\$1,297	\$1,461	\$1,469			
2003	# of Cases	3894	4207	4272	4291		
	Avg Cost/Case	\$3,226	\$5,114	\$5,876	\$6,218		
	Median	\$1,310	\$1,649	\$1,725	\$1,741		
2002	# of Cases	3683	3937	4016	4050	4054	
	Avg Cost/Case	\$3,121	\$5,076	\$5,983	\$6,406	\$6,697	
	Median	\$1,364	\$1,695	\$1,820	\$1,842	\$1,843	
2001	# of Cases	3327	3582	3660	3714	3733	3735
	Avg Cost/Case	\$3,100	\$5,022	\$6,270	\$6,935	\$7,224	\$7,298
	Median	\$1,425	\$1,834	\$1,993	\$2,061	\$2,068	\$2,057

SOURCE: Data provided by State of Montana WCAP database

Exhibit 5.10

Wage Replacement: Temporary Partial Disability, including Lump Sums							
(Cumulative Totals)							
Injury Year	Category	First Year	Second Year	Third Year	Fourth Year	Fifth Year	Sixth Year
2006	# of Cases	660					
	Avg Cost/Case	\$1,352					
	Median	\$709					
2005	# of Cases	770	847				
	Avg Cost/Case	\$1,327	\$1,618				
	Median	\$661	\$726				
2004	# of Cases	841	924	937			
	Avg Cost/Case	\$1,413	\$1,696	\$1,821			
	Median	\$593	\$651	\$662			
2003	# of Cases	754	844	864	869		
	Avg Cost/Case	\$1,389	\$2,062	\$2,275	\$2,339		
	Median	\$704	\$770	\$802	\$812		
2002	# of Cases	685	787	806	821	822	
	Avg Cost/Case	\$1,343	\$1,812	\$1,975	\$2,064	\$2,078	
	Median	\$660	\$766	\$785	\$787	\$787	
2001	# of Cases	583	674	695	703	705	707
	Avg Cost/Case	\$1,352	\$1,822	\$1,946	\$2,117	\$2,131	\$2,129
	Median	\$668	\$805	\$852	\$840	\$852	\$852

SOURCE: Data provided by State of Montana WCAP database

Exhibit 5.11

Wage Replacement: Permanent Partial Disability, including Lump Sums							
(Cumulative Totals)							
Injury Year	Category	First Year	Second Year	Third Year	Fourth Year	Fifth Year	Sixth Year
2006	# of Cases	424					
	Avg Cost/Case	\$5,534					
	Median	\$2,919					
2005	# of Cases	910	1416				
	Avg Cost/Case	\$7,251	\$8,644				
	Median	\$2,835	\$4,385				
2004	# of Cases	967	1792	1929			
	Avg Cost/Case	\$5,197	\$7,934	\$8,382			
	Median	\$2,739	\$4,399	\$4,557			
2003	# of Cases	830	1773	2064	2114		
	Avg Cost/Case	\$4,327	\$7,057	\$8,575	\$8,868		
	Median	\$2,483	\$4,139	\$4,186	\$4,300		
2002	# of Cases	654	1495	1804	1906	1941	
	Avg Cost/Case	\$4,165	\$6,159	\$7,825	\$8,492	\$8,797	
	Median	\$2,384	\$3,935	\$4,086	\$4,655	\$4,735	
2001	# of Cases	670	1339	1595	1716	1766	1779
	Avg Cost/Case	\$4,362	\$6,396	\$7,558	\$8,450	\$8,942	\$9,019
	Median	\$2,305	\$3,826	\$4,128	\$4,610	\$4,657	\$4,710

SOURCE: Data provided by State of Montana WCAP database

Exhibit 5.12

Wage Replacement: Permanent Total Disability, including Lump Sums							
(Cumulative Totals)							
Injury Year	Category	First Year	Second Year	Third Year	Fourth Year	Fifth Year	Sixth Year
2006	# of Cases	3					
	Avg Cost/Case	\$30,347					
	Median	\$24,000					
2005	# of Cases	0	6				
	Avg Cost/Case	\$0	\$35,451				
	Median	\$0	\$33,970				
2004	# of Cases	2	9	22			
	Avg Cost/Case	\$12,960	\$47,477	\$70,549			
	Median	\$12,960	\$28,350	\$42,090			
2003	# of Cases	7	13	33	48		
	Avg Cost/Case	\$11,129	\$29,473	\$41,674	\$45,343		
	Median	\$8,278	\$8,818	\$18,544	\$23,075		
2002	# of Cases	3	19	39	56	69	
	Avg Cost/Case	\$3,299	\$11,626	\$22,919	\$34,060	\$38,606	
	Median	\$1,669	\$3,603	\$9,819	\$19,117	\$19,510	
2001	# of Cases	4	10	27	42	50	58
	Avg Cost/Case	\$4,484	\$17,131	\$14,208	\$27,982	\$48,356	\$50,672
	Median	\$2,317	\$9,955	\$7,902	\$13,851	\$28,992	\$31,017

SOURCE: Data provided by State of Montana WCAP database

Exhibit 5.13

Medical Costs: Payments to Physicians							
(Cumulative Totals)							
Injury Year	Category	First Year	Second Year	Third Year	Fourth Year	Fifth Year	Sixth Year
2006	# of Cases	2766					
	Avg Cost/Case	\$2,308					
	Median	\$998					
2005	# of Cases	3850	4316				
	Avg Cost/Case	\$2,312	\$3,160				
	Median	\$1,160	\$1,599				
2004	# of Cases	3540	4469	4658			
	Avg Cost/Case	\$2,034	\$3,044	\$3,400			
	Median	\$1,064	\$1,692	\$1,823			
2003	# of Cases	3161	4098	4524	4638		
	Avg Cost/Case	\$2,176	\$3,260	\$3,702	\$3,896		
	Median	\$1,073	\$1,785	\$1,915	\$1,947		
2002	# of Cases	3205	3834	4121	4314	4439	
	Avg Cost/Case	\$2,085	\$3,086	\$3,544	\$3,797	\$3,933	
	Median	\$1,017	\$1,669	\$1,801	\$1,868	\$1,899	
2001	# of Cases	3089	3632	3772	3908	4108	4314
	Avg Cost/Case	\$1,935	\$2,873	\$3,305	\$3,694	\$3,927	\$4,030
	Median	\$980	\$1,580	\$1,756	\$1,838	\$1,902	\$1,880

SOURCE: Data provided by State of Montana WCAP database

Exhibit 5.14

Medical Costs: Payments to Hospitals							
(Cumulative Totals)							
Injury Year	Category	First Year	Second Year	Third Year	Fourth Year	Fifth Year	Sixth Year
2006	# of Cases	2017					
	Avg Cost/Case	\$3,615					
	Median	\$1,499					
2005	# of Cases	3113	3544				
	Avg Cost/Case	\$4,471	\$5,606				
	Median	\$1,882	\$2,340				
2004	# of Cases	2784	3665	3825			
	Avg Cost/Case	\$3,780	\$4,991	\$5,607			
	Median	\$1,682	\$2,195	\$2,350			
2003	# of Cases	2398	3305	3684	3787		
	Avg Cost/Case	\$3,509	\$5,104	\$5,669	\$5,980		
	Median	\$1,619	\$2,280	\$2,410	\$2,445		
2002	# of Cases	2485	3101	3337	3522	3624	
	Avg Cost/Case	\$3,923	\$5,146	\$5,681	\$5,993	\$6,200	
	Median	\$1,529	\$2,027	\$2,177	\$2,217	\$2,244	
2001	# of Cases	2396	2937	3055	3173	3343	3505
	Avg Cost/Case	\$3,315	\$4,447	\$5,181	\$5,511	\$5,893	\$6,013
	Median	\$1,386	\$1,918	\$2,031	\$2,077	\$2,108	\$2,105

SOURCE: Data provided by State of Montana WCAP database

Exhibit 5.15

Medical Costs: Payments to other Medical Providers

----- (Cumulative Totals) -----							
Injury Year	Category	First Year	Second Year	Third Year	Fourth Year	Fifth Year	Sixth Year
2006	# of Cases	3002					
	Avg Cost/Case	\$1,394					
	Median	\$414					
2005	# of Cases	3850	4249				
	Avg Cost/Case	\$1,584	\$2,470				
	Median	\$662	\$866				
2004	# of Cases	3471	4383	4562			
	Avg Cost/Case	\$1,445	\$2,410	\$2,907			
	Median	\$599	\$896	\$966			
2003	# of Cases	2941	3848	4291	4412		
	Avg Cost/Case	\$1,272	\$2,469	\$3,147	\$3,463		
	Median	\$621	\$954	\$1,047	\$1,088		
2002	# of Cases	2958	3554	3851	4087	4198	
	Avg Cost/Case	\$1,416	\$2,434	\$3,436	\$3,848	\$4,163	
	Median	\$601	\$902	\$985	\$1,044	\$1,095	
2001	# of Cases	2855	3390	3531	3676	3893	4104
	Avg Cost/Case	\$1,317	\$2,104	\$2,774	\$3,372	\$3,827	\$4,052
	Median	\$613	\$890	\$977	\$1,059	\$1,120	\$1,110

SOURCE: Data provided by State of Montana WCAP database

Exhibit 5.16

Medical Costs: Paid to Physicians, Hospitals and Other Medical Providers

----- (Cumulative Totals) -----							
Injury Year	Category	First Year	Second Year	Third Year	Fourth Year	Fifth Year	Sixth Year
2006	# of Cases	3400					
	Avg Cost/Case	\$5,253					
	Median	\$2,059					
2005	# of Cases	4218	4622				
	Avg Cost/Case	\$6,856	\$9,520				
	Median	\$3,499	\$4,599				
2004	# of Cases	3873	4819	5005			
	Avg Cost/Case	\$5,871	\$8,809	\$10,097			
	Median	\$3,081	\$4,678	\$4,923			
2003	# of Cases	3384	4319	4776	4903		
	Avg Cost/Case	\$5,624	\$9,170	\$10,678	\$11,387		
	Median	\$3,020	\$4,800	\$5,260	\$5,359		
2002	# of Cases	3430	4037	4339	4576	4695	
	Avg Cost/Case	\$6,012	\$9,018	\$10,748	\$11,585	\$12,175	
	Median	\$2,889	\$4,426	\$4,830	\$5,007	\$5,146	
2001	# of Cases	3303	3842	3979	4126	4351	4567
	Avg Cost/Case	\$5,352	\$7,969	\$9,566	\$10,628	\$11,546	\$11,956
	Median	\$2,789	\$4,105	\$4,473	\$4,698	\$4,877	\$4,854

SOURCE: Data provided by State of Montana WCAP database

Exhibit 5.17

Wage Replacement: Lump Sums							
(Cumulative Totals)							
Injury Year	Category	First Year	Second Year	Third Year	Fourth Year	Fifth Year	Sixth Year
2006	# of Cases	246					
	Avg Cost/Case	\$10,718					
	Median	\$5,746					
2005	# of Cases	483	772				
	Avg Cost/Case	\$11,934	\$14,137				
	Median	\$5,023	\$7,400				
2004	# of Cases	417	933	1049			
	Avg Cost/Case	\$10,153	\$14,398	\$15,308			
	Median	\$5,000	\$8,252	\$8,819			
2003	# of Cases	427	934	1157	1221		
	Avg Cost/Case	\$8,523	\$13,175	\$14,936	\$15,880		
	Median	\$4,800	\$8,288	\$9,778	\$10,000		
2002	# of Cases	357	822	1032	1135	1178	
	Avg Cost/Case	\$7,761	\$11,856	\$14,313	\$15,145	\$15,632	
	Median	\$3,973	\$7,481	\$9,016	\$9,984	\$10,000	
2001	# of Cases	350	757	938	1029	1119	1150
	Avg Cost/Case	\$8,721	\$11,957	\$13,469	\$15,137	\$16,273	\$16,476
	Median	\$4,773	\$6,949	\$8,413	\$9,709	\$9,882	\$9,892

SOURCE: Data provided by State of Montana WCAP database

Exhibit 5.18

Medical Lump Sums: Paid to Claimant as Settlement of Medical Liability							
(Cumulative Totals)							
Injury Year	Category	First Year	Second Year	Third Year	Fourth Year	Fifth Year	Sixth Year
2006	# of Cases	1					
	Avg Cost/Case	\$2,000					
	Median	\$2,000					
2005	# of Cases	2	3				
	Avg Cost/Case	\$1,178	\$810				
	Median	\$1,178	\$855				
2004	# of Cases	\$0	1	1			
	Avg Cost/Case	\$0	\$5,000	\$5,000			
	Median	\$0	\$5,000	\$5,000			
2003	# of Cases	6	14	15	15		
	Avg Cost/Case	\$3,942	\$2,883	\$2,731	\$2,815		
	Median	\$438	\$847	\$695	\$1,000		
2002	# of Cases	4	26	33	37	40	
	Avg Cost/Case	\$342	\$2,383	\$2,760	\$2,507	\$2,422	
	Median	\$146	\$578	\$707	\$576	\$567	
2001	# of Cases	3	10	21	28	28	30
	Avg Cost/Case	\$12,500	\$8,813	\$4,919	\$8,119	\$8,310	\$7,774
	Median	\$2,000	\$2,000	\$1,000	\$1,102	\$1,552	\$1,102

SOURCE: Data provided by State of Montana WCAP database

Exhibit 5.19

Wage Replacement: Vocational Rehabilitation Benefits, including Lump Sums							
(Cumulative Totals)							
Injury Year	Category	First Year	Second Year	Third Year	Fourth Year	Fifth Year	Sixth Year
2006	# of Cases	179					
	Avg Cost/Case	\$4,894					
	Median	\$2,931					
2005	# of Cases	50	315				
	Avg Cost/Case	\$3,271	\$5,398				
	Median	\$2,002	\$3,416				
2004	# of Cases	38	147	222			
	Avg Cost/Case	\$2,048	\$3,463	\$4,494			
	Median	\$2,065	\$2,347	\$2,601			
2003	# of Cases	34	200	258	292		
	Avg Cost/Case	\$1,817	\$3,496	\$4,246	\$5,207		
	Median	\$1,688	\$2,233	\$2,396	\$2,550		
2002	# of Cases	37	169	234	267	283	
	Avg Cost/Case	\$2,405	\$3,580	\$5,488	\$6,520	\$6,968	
	Median	\$1,605	\$2,263	\$2,723	\$2,951	\$3,040	
2001	# of Cases	43	162	229	263	280	289
	Avg Cost/Case	\$1,757	\$3,249	\$4,701	\$6,076	\$6,936	\$7,180
	Median	\$1,442	\$2,053	\$2,345	\$2,536	\$2,679	\$2,716

SOURCE: Data provided by State of Montana WCAP database

Settlement Dollars

Settlements are lump sum payments of the claimant's workers' compensation indemnity and/or medical benefits. Benefits are usually paid in periodic payments designed to sustain an injured worker over an extended period of time. Settlements can occur when the claimant and the insurer agree that benefits will be converted to a lump sum payment. If the claimant has more than one claim, a settlement may settle more than one of those claims. Settlements are subject to approval by ERD.

This graph displays average settlement amounts, by fiscal year of injury, for claims settled between July 01, 2001 and June 30, 2006. This information includes both injury and occupational disease settlements.

Exhibit 5.20
Average Settlement¹
By Fiscal Year of Injury

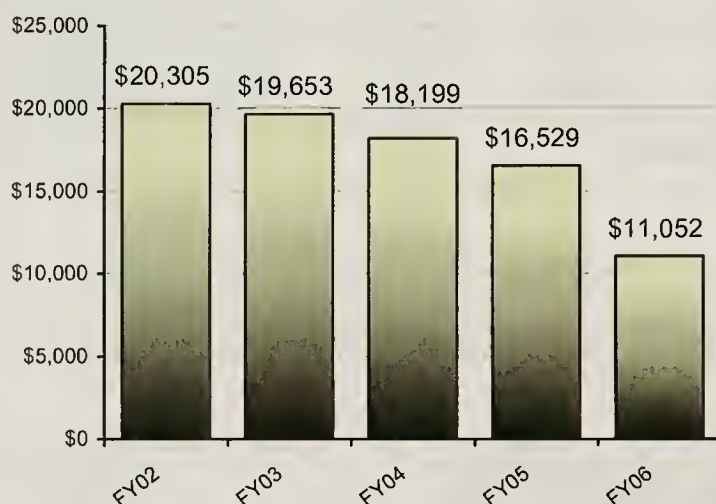


Exhibit 5.21
Settlement Amounts for Claims Settled¹
By Plan Type² and Fiscal Year of Injury

Plan Type ²	FY02		FY03		FY04		FY05		FY06	
	Amount	Count	Amount	Count	Amount	Count	Amount	Count	Amount	Count
Plan 1	3,023,408	172	2,808,358	191	2,362,202	157	1,267,887	100	116,588	28
Plan 2	6,527,400	360	6,083,727	346	4,604,716	275	2,923,667	179	706,379	62
Plan 3	8,137,473	340	9,012,125	375	6,213,191	296	4,211,789	231	934,262	69
UEF	78,596	3	97,661	4	141,417	4	59,300	2	0	0
Totals³	\$17,766,877	875	\$18,001,871	916	\$13,321,526	732	\$8,462,643	512	\$1,757,229	159

Notes:

¹These charts do not include settlements ordered by the Workers' Compensation Court.

²Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund, and UEF – Uninsured Employers Fund.

³Previous fiscal year information has been updated.

Attorney Fees

ERD requires claimants' attorneys to submit a Legal Fee report at regular intervals throughout the life of a claim. Maximum legal fees are set by rule and regulated¹ by ERD. The Legal Fee report provides the amount of attorney costs and fees received by the attorney.

The data in exhibits 5.22 and 5.23 present the attorney fees and associated costs by plan type and fiscal year of injury.

Exhibit 5.22
Total Attorney Legal Fees
By Plan Type² and Fiscal Year of Injury

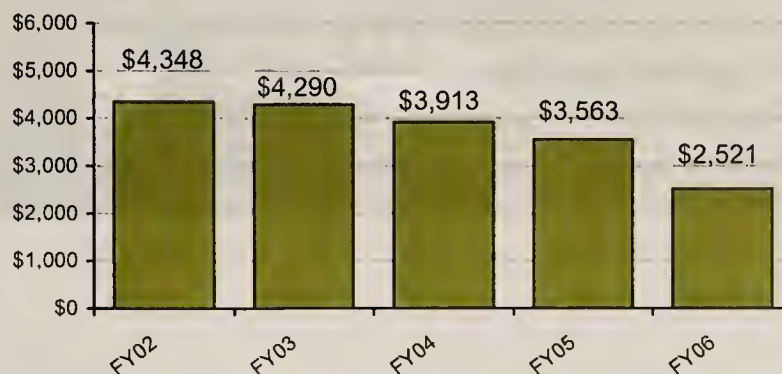
Plan Type ²	FY02		FY03		FY04		FY05		FY06	
	Amount	Count	Amount	Count	Amount	Count	Amount	Count	Amount	Count
Plan 1	275,916	75	227,743	63	199,842	41	126,346	36	242,004	127
Plan 2	1,000,117	257	769,192	188	534,062	137	350,033	105	449,383	205
Plan 3	1,009,883	193	980,813	210	754,703	203	546,101	147	960,465	317
UEF	1,250	1	0	0	6,094	1	7,114	1	22,218	15
Totals	\$2,287,166	526	\$1,977,749	461	\$1,494,701	382	\$1,029,594	289	\$1,674,070	664

Notes:

¹\$39-71-613 and \$39-71-606, MCA (2005)

²Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund, and UEF – Uninsured Employers Fund.

Exhibit 5.23
Average Attorney Legal Fees
By Fiscal Year of Injury



ERD also collects legal fees reported on workers' compensation approved settlements. The table below represents fees claimed in the fiscal year of the approved settlement regardless of the fiscal year in which the injury or disease occurred. This data shows that approximately 55% of all settlements in FY06 involve attorneys.

Exhibit 5.24
Attorney Fees from Claimant Settlements¹
By Fiscal Year of Settlement

	FY02	FY03	FY04	FY05	FY06
Number of Settlement Petitions Processed	1,228	1,324	1,415	1,452	1,459
Claims Settled with Attorney Representation	682	646	766	778	796
Percent Claimants Represented by Attorney	56%	49%	54%	54%	55%
Total Settlement Amount with Attorney Involvement	\$17,551,999	\$17,745,697	\$22,504,597	\$22,361,132	\$26,086,926
Total Attorney Fees	\$3,183,271	\$3,191,182	\$3,965,833	\$3,936,199	\$4,729,148

Notes:

¹Similar to reports issued in previous years, there are a small percentage of records for which no attorney fees were listed due to entry errors and/or reporting limitations.



**Occupational Disease
Evaluations**

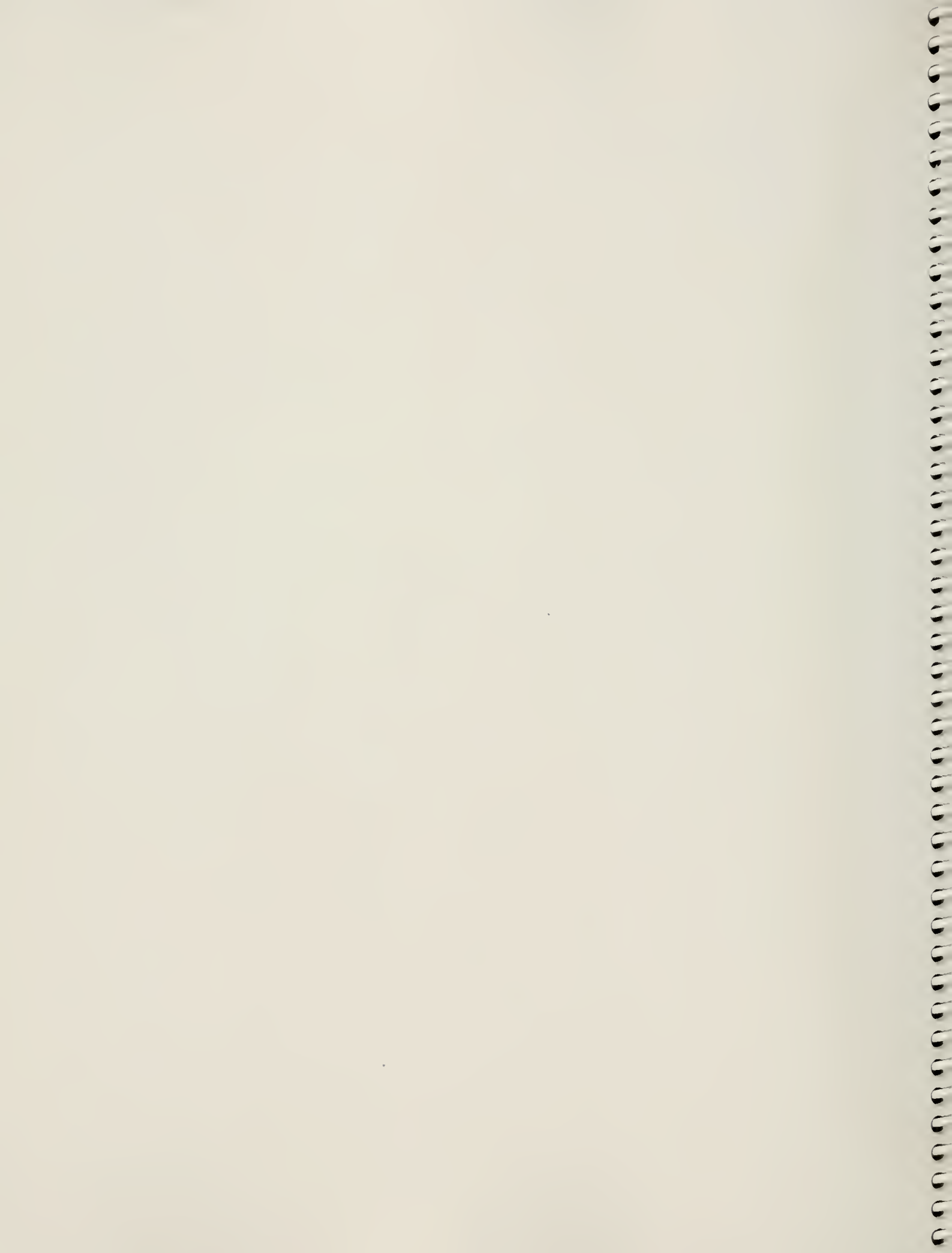
Mediation

Contested Case Hearings

Workers' Compensation Court

**Significant Workers'
Compensation Court Cases**

**Supreme Court Decisions on
Workers' Compensation &
Occupational Disease**



Occupational Disease Evaluations

The Workers' Compensation Claims Assistance Bureau of the ERD is responsible for the Occupational Disease (OD) evaluation process. The process is used to determine whether a claimant's condition is a result of the employment and to determine compensability of claims under the OD statutes when an insurer has not accepted liability for the claim.

The process requires the claimant to attend a medical evaluation directed by the department. The medical evaluator submits a report of findings to the department. A copy of the report is then sent to the claimant and the insurer. If a dispute still exists over initial compensability as an OD, it is a dispute subject to the jurisdiction of the Workers' Compensation Court (WCC).

Exhibit 6.1

Occupational Disease Cases By Plan Type¹ and Fiscal Year of Evaluation Request

Plan Types	FY02	FY03	FY04	FY05	FY06
Plan 1	29	30	25	38	10
Plan 2	63	64	28	54	19
Plan 3	81	96	71	101	35
Total	173	190	124	193	64²

Notes:

¹Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund

²The number of department evaluations has decreased due to repeal of the OD Act for injuries on or after 7/1/05. After 7/1/05, disputes go to mediation and then to the WCC.

Mediation

The Workers' Compensation Mediation Unit of ERD administers a mandatory process for resolving disputes dealing with benefits for both occupational injury and occupational disease claims. The mediation process is confidential, non-binding and informal. The mediator facilitates the exchange of information between the parties and assists with solutions aimed at resolving the dispute. Conferences are held either in person in Helena or by telephone. Often more than one conference is held in order to resolve the disputes on a claim. In FY06, the Mediation Unit received and processed 1,410 petitions, which involved 1,559 claims. A petition is a request for mediation and may include multiple claims.

Exhibit 6.2
Claims in Mediation - FY06
By Plan Type¹

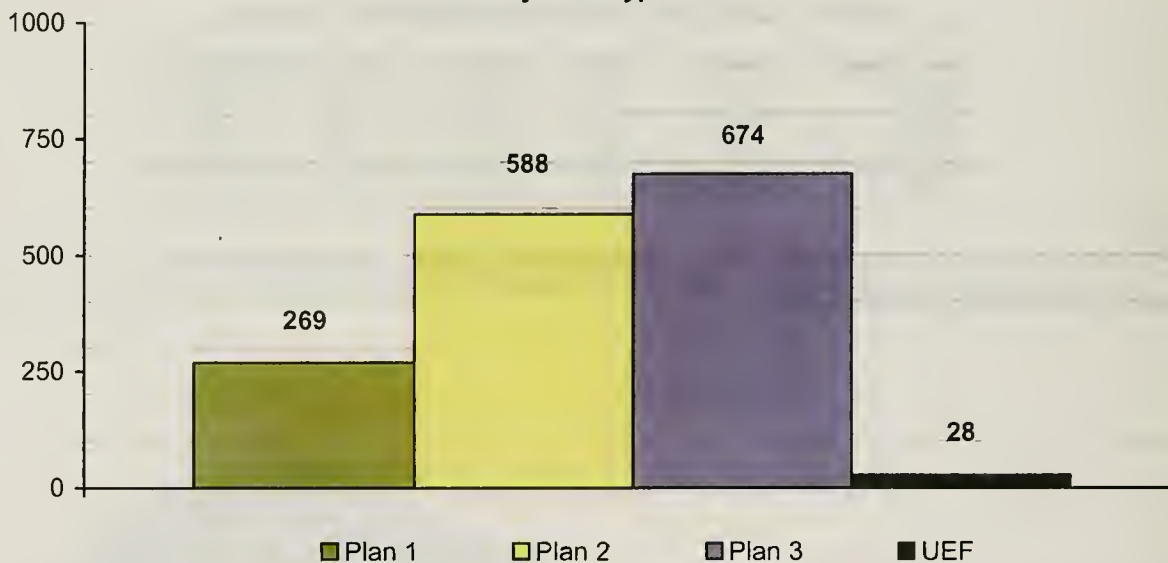


Exhibit 6.3
Claims in Mediation
By Plan Type¹ and Fiscal Year of Receipt

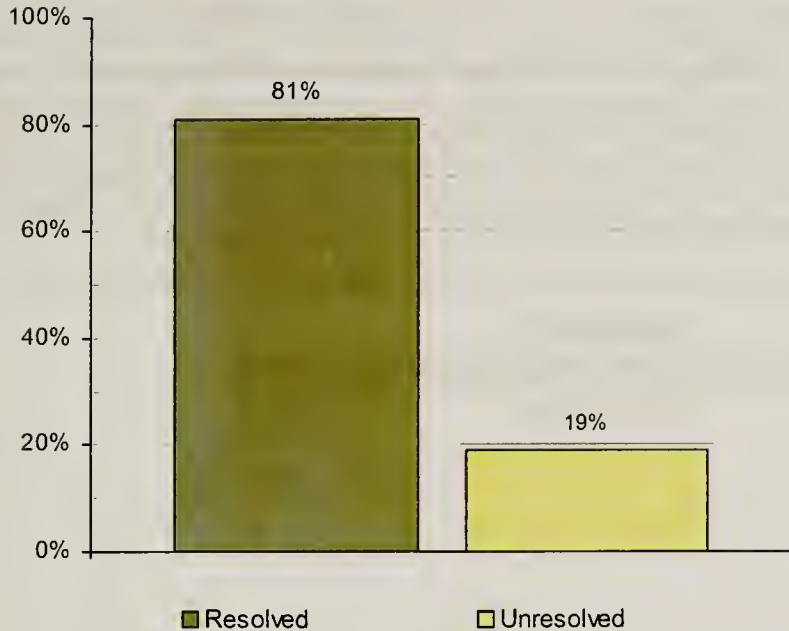
Plan Types	FY02		FY03		FY04		FY05		FY06	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Plan 1	247	18%	244	18%	273	19%	270	18%	269	17%
Plan 2	681	49%	625	46%	577	41%	542	37%	588	38%
Plan 3	444	31%	452	33%	551	39%	622	43%	674	43%
UEF	27	2%	36	3%	16	1%	27	2%	28	2%
Totals²	1,399	100%	1,357	100%	1,417	100%	1,461	100%	1,559	100%

Notes:

¹Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund and UEF – Uninsured Employers Fund

²Total count represents the number of claims, not the number of petitions. Due to coverage and claim updates to our database following mediation, the claim counts may be changed slightly over prior years.

Exhibit 6.4
Percent of Petitions Resolved
By Mediation



- Over the past five years, the Mediation process has had an average resolution rate of 78%.
- From the date of the petition receipt to issuing a written recommendation, the average completion time for mediation was 42 days in FY06.

Exhibit 6.5
Mediation Petitions¹
By Fiscal Year of Receipt

Petitions Received	FY02		FY03		FY04		FY05		FY06	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Pending ²	0	0%	0	0%	0	0%	6	1%	114	8%
Closed	1,260	100%	1,232	100%	1,303	100%	1,330	99%	1,296	92%
Total Petitions Received	1,260	100%	1,232	100%	1,303	100%	1,336	100%	1,410	100%
Resolved	973	77%	975	79%	1,002	77%	1,028	77%	1,044	81%
Unresolved	287	23%	257	21%	301	23%	302	23%	252	19%
Total Petitions Closed	1,260	100%	1,232	100%	1,303	100%	1,330	100%	1,296	100%

Notes:

¹A single petition may include multiple claims and/or multiple insurers.

²Eventual outcome of pending petitions will affect percent resolved.

Contested Case Hearings

The DLI Hearings Bureau holds contested case hearings. Disputes heard at contested case hearings include appeals from orders and determinations issued by ERD, assessments of penalties for uninsured employers, medical disputes between providers and insurers when payments to the claimant are not an issue and regulation of attorney fees. The numbers of cases being heard by the DLI Hearings Bureau has been declining since FY98, when the Legislature transferred responsibility for hearing occupational disease claims to the WCC. In FY06, the Hearings Bureau received 10 new requests for contested case hearings.

Exhibit 6.6
Petitions Received by the Hearings Bureau- FY06
By Plan Type¹

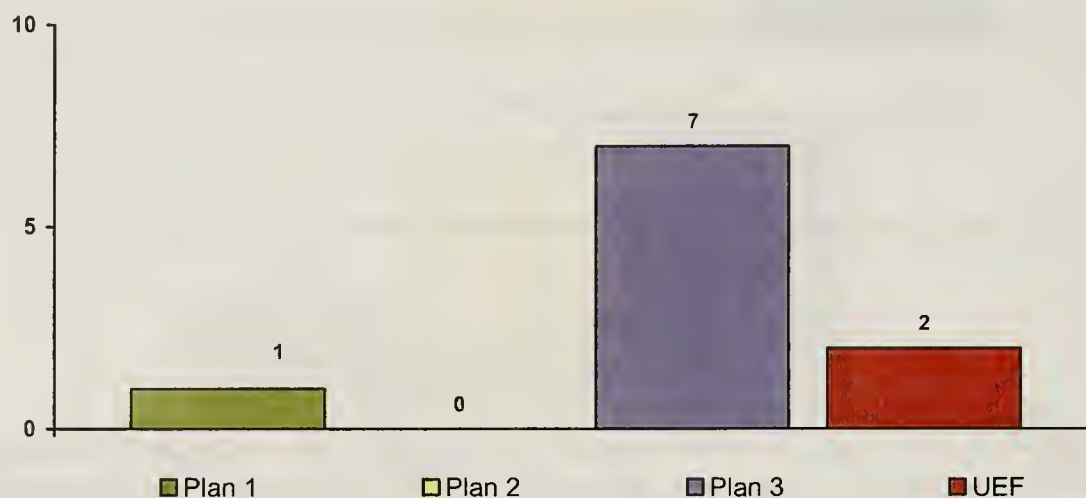


Exhibit 6.7
Petitions Received by the Hearings Bureau
By Plan Type¹ and Fiscal Year

Plan Type	FY02		FY03		FY04		FY05		FY06	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Plan 1	0	0%	1	5%	0	0%	0	0%	1	10%
Plan 2	7	44%	6	32%	5	36%	3	28%	0	0%
Plan 3	2	13%	3	16%	7	50%	4	36%	7	70%
UEF	6	38%	9	47%	2	14%	4	36%	2	20%
PEO	1	6%	0	0%	0	0%	0	0%	0	0%
Total	16	100%	19	100%	14	100%	11	100%	10	100%

Notes:

¹Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund, UEF – Uninsured Employers Fund and PEO – Professional Employer Organization.

Workers' Compensation Court

WCC resolves disputes between insurers or employers and workers disabled as a result of occupational injuries or diseases. The court has original jurisdiction over benefit issues arising under the Workers' Compensation Act and the Occupational Disease Act. For an injury occurring after July 01, 1987, disputes must first be mediated. The court's exclusive jurisdiction also extends to disputes involving independent contractor exemptions under both the Workers' Compensation and Unemployment Insurance Acts, enforcement of DLI subpoenas, civil penalties for violations of workers' compensation provisions and the two-year return to work preference specified in section 39-71-317(2), MCA.

Court statistics were taken from the Workers' Compensation Court Website: <http://wcc.dli.mt.gov>

Exhibit 6.8
Percent of Petitions Received by the WCC - FY06
By Plan Type¹

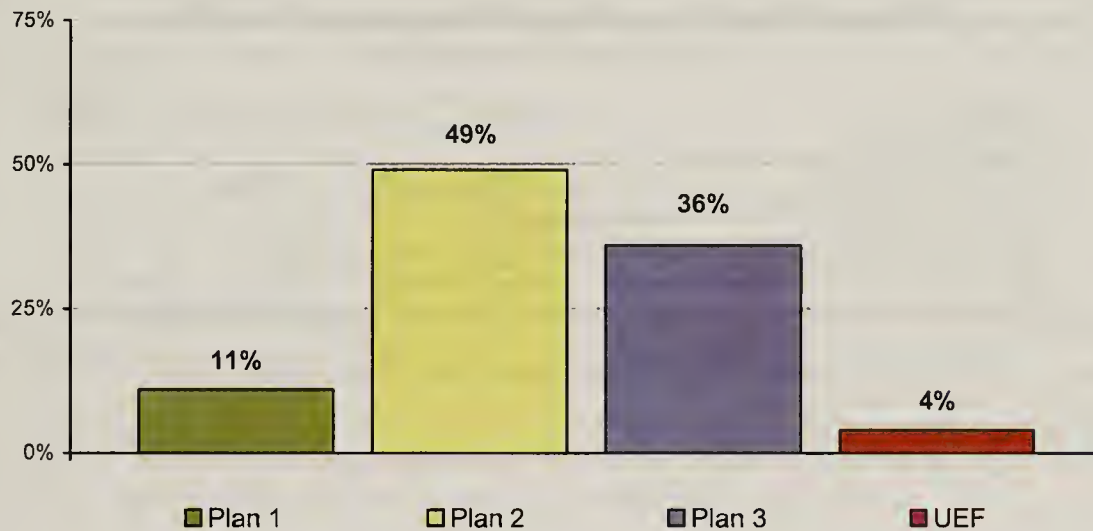


Exhibit 6.9
Petitions Received by the WCC
By Plan Type¹ and Fiscal Year

Plan Type	FY02		FY03		FY04		FY05		FY06	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Plan 1	29	12%	34	14%	28	11%	40	14%	34	11%
Plan 2	140	56%	139	59%	144	55%	124	45%	150	49%
Plan 3	62	25%	53	22%	75	29%	96	35%	108	36%
UEF	16	6%	9	4%	14	5%	18	6%	12	4%
Total by Plan²	247	100%	235	100%	261	100%	278	100%	304	100%

Notes:

¹Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund, SIF – Subsequent Injury Fund and UEF – Uninsured Employers Fund

²Petitions may involve more than one plan type.

Exhibit 6.10
Decisions by the WCC
By Fiscal Year

Decisions	FY02	FY03	FY04	FY05	FY06
Telephone Conference Resulting in Disposition	3	0	0	0	0
Bench Rulings without Written Decisions	2	0	1	3	1
Decisions	103	145	158	161	182
Orders on Appeal	4	0	0	1	1
Substantive Orders	26	32	30	41	27
Attorney Fee Orders	0	5	7	2	2
Orders on Cost	14	15	4	2	2
Disposed of by Telephonic Conference	2	0	0	0	0
Subtotals	152	197	200	210	215
Petitions Dismissed by Agreement	118	72	88	83	96
Totals	270	269	288	293	311

Exhibit 6.11
Full and Final Compromise Settlements by the WCC
By Plan Type¹ and Fiscal Year

Plan Type	FY02	FY03	FY04	FY05	FY06
Plan 1 Self-Insured	5	5	7	1	1
Plan 2 Private Insurers	16	12	13	6	6
Plan 3 State Compensation Ins. Fund	24	24	17	10	15
Plan 4 Subsequent Injury Fund	0	0	0	0	0
Plan 5 Uninsured Employers Fund	0	0	0	0	0
Total	45	41	37	17	22

Note:

¹Plan types: Plan 1 – Self-insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund, SIF – Subsequent Injury Fund and UEF – Uninsured Employers Fund

Significant Workers' Compensation Court Cases

Case summaries are taken from the WCC Website: <http://wcc.dli.mt.gov>

ROBERT BENHART vs. LIBERTY NORTHWEST 2007 MTWCC 3

Summary: Petitioner suffered a work-related injury on January 15, 2003. Prior to his injury, he had been diagnosed with Hepatitis C. Subsequent to Petitioner's injury, and for unrelated reasons, his Hepatitis C worsened and his health declined. Respondent denied liability for PTD benefits, arguing that although Petitioner's Hepatitis C predated his work related injury, the Hepatitis C did not cause Petitioner's health to decline until after his work related injury. Petitioner argued that even without taking his Hepatitis C into account, his work related injury rendered him permanently totally disabled.

Held: The parties agreed that Petitioner's condition prior to the effects of the Hepatitis C limited Petitioner to, at most, a part-time job which his treating physician approved only on a trial basis and that it was reasonably foreseeable that Petitioner would be physically unable to function at that level. However, no job analyses were submitted. The Court concludes that even without taking Petitioner's subsequent complications from Hepatitis C into account, he is permanently totally disabled.

RICHARD D. HINMAN vs. MONTANA STATE FUND 2007 MTWCC 2

Appealed to Supreme Court January 14, 2007

Summary: Petitioner petitioned the Court for workers' compensation benefits because of chemical exposures occurring during his employment with Specialized Automotive.

Held: Petitioner is not entitled to any workers' compensation benefits. Petitioner has not met his burden of proving his chronic obstructive pulmonary disease was caused by the chemical exposures occurring during his employment with Specialized Automotive.

ANNA JOHNSON vs. LIBERTY MUTUAL FIRE INSURANCE COMPANY 2007 MTWCC 1

Appealed to Supreme Court February 2, 2007

Summary: Petitioner alleges she fell at work, injuring her neck and upper back, and that she reported the injury to co-managers who left that employment shortly thereafter and apparently failed to file the report. Petitioner later filed a claim form with Respondent, alleging a progressive neck injury. Respondent accepted Petitioner's claim regarding degenerative changes in her neck, but has since denied her upper back claim.

Held: Although it is certainly plausible that an injured worker may submit a report of injury which a supervisor then fails to file properly, the empirical evidence presented in this case does not support Petitioner's claim. Petitioner's extensive contemporary medical records contain no evidence that Petitioner ever claimed that she was injured in a fall at work until nearly two years after she left this employment. Petitioner's claim is denied.

SCOTT PALMER vs. SAFECO
2006 MTWCC 44

Summary: Respondent moved for summary judgment regarding Petitioner's request for ongoing medical benefits, arguing that because Petitioner had not used his benefits for more than 60 consecutive months, his benefits terminated pursuant to § 39-71-704(1)(e), MCA (1997). Petitioner responded that the statute should be tolled because he was receiving medical treatment for difficulties which he was unaware stemmed from his industrial accident at the time of treatment.

Held: Because § 39-71-704(1)(e), MCA (1997), is a statute of repose, it cannot be tolled. Therefore, Respondent's motion for summary judgment is granted.

MARIL BeVAN vs. LIBERTY NORTHWEST INSURANCE CORPORATION
2006 MTWCC 38

Appealed to Supreme Court December 15, 2006

Summary: Petitioner was a customer service and sales representative for Blackfoot Telephone Communications. She was involved in a motor vehicle accident during an authorized paid break as she returned to work. Respondent denied liability on the grounds that Petitioner was outside the course and scope of her employment.

Held: Petitioner was within the course and scope of her employment when she was involved in a motor vehicle accident during an authorized paid break.

RICHARD POPENOE vs. LIBERTY NORTHWEST INSURANCE CORPORATION
2006 MTWCC 37

Appealed to Supreme Court December 15, 2006
Appeal Dismissed, Case Remanded to WCC February 7, 2007

Order Vacated and Withdrawn Pursuant to Stipulation of Counsel and Order and Judgment of Court February 8, 2007

Summary: Petitioner moved for summary judgment after Respondent denied his claim for workers' compensation benefits. Respondent filed a cross-motion for summary judgment. Petitioner broke his ankle when he fell in his employer's parking lot while removing his bicycle from the back of a friend's truck approximately five minutes before the start of his shift. Petitioner claims that his injury is compensable under the "premises rule," while Respondent argues that Petitioner's injury is not compensable because it falls under the "going and coming" rule, now codified by § 39-71-407, MCA, and because Petitioner's actions at the time of his injury were not within the scope of his employment.

Held: Summary judgment is granted in favor of Petitioner. Montana case law has established that after an employee has arrived at his employer's premises and he is no longer engaged in traveling to or from the site of his employment, an injury suffered by the employee is compensable under the "premises rule." Petitioner is entitled to attorney fees and a penalty because, in light of the applicable statutes and case law, Respondent's denial of benefits was unreasonable.

RODNEY BARNARD vs. LIBERTY NORTHWEST
2006 MTWCC 35
Appealed to Supreme Court November 13, 2006

Summary: Petitioner petitioned for a lump-sum conversion of his permanent total disability benefits, testifying that he would use the money for a new mobile home, driveway improvements, a newer motor vehicle, and additional cattle. Respondent responded that Petitioner's request should not be granted because his lump sum exceeds the \$20,000 limit permissible under § 39-71-741, MCA, or in the alternative, because Petitioner will not use the lump sum to obtain necessities of life.

Held: Section 39-71-741(1)(c), MCA, limits the Department of Labor and Industry to awarding lump-sum conversions in part to a total of \$20,000. However, it does not limit conversions in whole to that amount. Petitioner's planned use for the proposed lump-sum conversion meets Petitioner's necessities of life pursuant to § 39-71-741(1)(c), MCA. Furthermore, it is in his and his family's best interests and is therefore granted.

**EULA MAE HIETT vs. MONTANA SCHOOLS GROUP INSURANCE AUTHORITY,
MONTANA STATE FUND and LIBERTY NORTHWEST INSURANCE CORPORATION**
2006 MTWCC 33

Summary: Following briefing by the parties, the Court determined whether the Montana Supreme Court's ruling in this case abrogates the exclusion of palliative and maintenance care set forth in § 39-71-704(1)(f), MCA; and whether the criteria for furnishment of secondary medical services set forth in § 39-71-704(1)(b), MCA, may still apply under any circumstances or whether this section was wholly abrogated by *Hiett*.

Held: The *Hiett* decision has not abrogated the exclusion of palliative and maintenance care, and the secondary medical benefits provision has not been wholly abrogated by *Hiett* and may still apply to particular claims.

MONTANA STATE FUND vs. MICHAEL H. PARDIS, D.C.
2006 MTWCC 21

Summary: Insurer appealed ruling by hearing officer for the Department of Labor and Industry which held that insurer was liable for payment to chiropractor for treatments provided to four patients even though those treatments far exceeded statistical averages presented by insurer's experts. The insurer did not obtain independent medical examinations of the patients and therefore could not prove the patients had reached maximum medical improvement prior to the cessation of treatment. Furthermore, as regards one of the four patients, the insurer did not have the authority to direct the patient to obtain treatment from another physician.

Held: The Final Agency Decisions are affirmed.

MARK PETERSON vs. MONTANA SCHOOLS GROUP INSURANCE AUTHORITY
2006 MTWCC 14

Appealed to Supreme Court 05/05/06
Dismissed by Stipulation July 26, 2006 at DA-06-0363

Summary: Petitioner suffered a compensable occupational disease in his right arm and shoulder, rendering him unable to return to his custodian/maintenance position with the school district. After Petitioner reached maximum medical improvement and his treating physician approved five job analyses, Respondent terminated Petitioner's temporary total disability benefits. However, Petitioner's treating physician only considered whether Petitioner was employable in the five job analyses based solely upon the condition of Petitioner's shoulder, and did not take Petitioner's other serious health problems into consideration.

Held: Petitioner's occupational disease, taken in conjunction with the rest of his health problems and his lack of education or skills, renders him unemployable. Because he has reached maximum medical improvement, he is no longer eligible for temporary total disability benefits, as defined by § 39-71-116(34), MCA (1997). Petitioner is therefore permanently totally disabled within the meaning of § 39-71-116(24), MCA (1997).

LORI AUCHENBACH vs. UNINSURED EMPLOYERS' FUND
and UPPER DECK BAR & GRILL
2006 MTWCC 13

Summary: Respondent Uninsured Employers' Fund filed a motion to dismiss based on lack of jurisdiction due to Petitioner's failure to file her Petition for Hearing with the WCC within sixty days after the mailing of the Mediator's Report and Recommendation, as required under § 39-71-520(2), MCA (2003). The UEF, however, had failed to respond to the Mediator's Report and Recommendation within twenty-five days, as required under § 39-71-2411(6), MCA (2003). Moreover, Respondent failed to respond to the Recommendation within sixty days, leaving Petitioner in the dark regarding Respondent's position on the Recommendation and whether settlement had been achieved. Pursuant to § 39-71-520(2)(c), MCA (2003), Petitioner could not file a petition before this Court until there had been a failure to reach settlement through mediation. Until Respondent fulfilled its statutory obligation to either accept or reject the Mediator's Report and Recommendation, there was no failure to reach settlement.

Held: Respondent's motion to dismiss is denied. As a fundamental matter of equity, this Court cannot allow a party to sit on its hands while a time limitation runs on a *pro se* petitioner while, at the same time, ignoring its own affirmative statutory duty to act. Respondent is equitably estopped from relying on § 39-71-520(2)(c), MCA (2003), because it failed to comply with § 39-71-2411(6), MCA (2003), by failing to respond to the Recommendation within twenty-five days. The elements of both equitable estoppel and **Order Denying Respondent's Motion to Dismiss - Page 2** estoppel by silence or acquiescence are satisfied in this case. Respondent cannot stay silent in the face of a statute requiring it to respond, continue its silence after receiving a letter from the Mediation Unit requesting Respondent's response, and then rely on a time limitation set forth in a statute which precludes Petitioner from filing a petition with this Court prior to Respondent's response to the Recommendation.

CURTIS M. MICHALAK vs. LIBERTY NORTHWEST INSURANCE CORP.
2007 MTWCC 14
Appealed to Supreme Court March 22, 2007

Summary: Petitioner attended a company picnic hosted by his employer at the employer's lake home and was injured while riding a wave runner on the water. Respondent denied liability.

Held: Section 39-71-118, MCA, which defines "employee" does not preclude Petitioner from receiving benefits because he was acting within the course and scope of his employment at the time of his injury even though he was engaged in a recreational activity.

DONALD WILKES vs. MONTANA STATE FUND
2007 MTWCC 9
Appealed to Supreme Court March 23, 2007

Summary: Petitioner moved for summary judgment, arguing that § 39-71-703, MCA(2001), is unconstitutional to the extent that it denies permanent partial disability benefits for age, education, and lifting to claimants who do not suffer a wage loss. Respondent also moved for summary judgment, arguing that § 39-71-703, MCA, is constitutional.

Held: Petitioner's motion for summary judgment is denied. Respondent's motion for summary judgment is granted. In 1995, the Legislature codified benefits based on age, lifting, and education for permanent partial disability claimants who suffered a wage loss after returning to work while providing no additional benefits based on age, education, and lifting to those claimants who received an impairment award but suffered no wage loss after returning to work. Because these two classes are not similarly situated, the Court concludes there is no violation of Petitioner's equal protection rights.

Supreme Court Decisions on Workers' Compensation and Occupational Disease

These decisions can be found at the State Law Library Website: www.lawlibrary.state.mt.us

STAVENJORD vs. MONTANA STATE FUND ***Appeal from the WCC. Reversed.***

The WCC determined 39-72-405 (2), (1997) to be a violation of equal rights. Stavenjord sought retroactive application and recovery of common fund attorney fees for Stavenjord-type benefits secured for non-participating claimants. Applying the Chevron factors, the court determined retroactive application of the Stavenjord decision was proper. Stavenjord did not create a common fund, and counsel was not entitled to recover fees from cases brought by other claimants.

The case was remanded to the WCC for identification of potential beneficiaries under this decision, and notification of their interests.

NOONKESTER vs. MONTANA STATE FUND ***Appeal from the WCC. Affirmed.***

The injured employee was a minor. A workers' compensation claim was made on his behalf. Upon majority, the employee sought to repudiate his workers' compensation claim and proceed in tort.

Following repudiation of his workers' compensation claim, the WCC correctly determined it did not have a jurisdiction over the dispute as to whether or not the employee was injured in the course and scope of employment.

VOGEL vs. INTERCONTINENTAL TRUCK BODY, INC ***Appealed from Ninth Judicial District Court. Affirmed.***

Employee had knee problems and filed a workers' compensation claim. After surgery, his problems continued, and included problems performing his job. He was terminated and brought a wrongful discharge action against his employer, Intercontinental. In his workers' compensation claim, he contended he was unable to perform his job.

The four elements of judicial estoppel are (1) aware that he'd been fired when he filed for workers' compensation (2) succeeded in maintaining original position (3) took an inconsistent position in the wrongful discharge case; and (4) allowing him to change his position would injuriously harm the employer.

The district court correctly granted the employer's motion for summary judgment under judicial estoppel.

OBERSON vs. FEDERATED MUTUAL INSURANCE CO.
Appeal from District Court of the Second Judicial District

Employee filed a Michigan workers' compensation claim, and a personal injury claim against a third-party in Montana, and won. The Michigan workers' compensation insurer sought subrogation. The Supreme Court ruled Montana law prevents subrogation until the employee was made whole. The WCC had no jurisdiction over this subrogation issue due to the specific language in 39-71-2905.

BAIN vs. LIBERTY MUTUAL FIRE INSURANCE CO.
Appeal from the WCC. Affirmed.

Employee claimed injury due to hepatitis B vaccinations urged by her employer. The WCC found that the employee did not timely notify her employer, did not timely file her claim, and did not demonstrate a causal relationship between the vaccinations and her conditions. The WCC findings were supported by substantial credible evidence.

FLYNN vs. UNINSURED EMPLOYERS' FUND
Appeal from the WCC. Affirmed.

Employee injured his back. The employer did not have workers' compensation coverage, and the claim was handled by the UEF. UEF denied the claim as exempt from mandatory coverage under household and domestic services exemption. UEF's determination was made on November 21, 2002, but was not mailed until November 25, 2002. The employee requested mediation on February 22, 2003.

The statute establishes the 90-day time to appeal commences when the determination is made, not when it is mailed. The employee's request for mediation is time-barred under 39-710-520 (2001) and UEF's decision is unappealable.

QUIGG vs. MONTANA STATE FUND
Appeal from the WCC. Affirmed.

Quigg was injured while incarcerated and performing community services. He sought indemnity benefits. The WCC ruled, and the Supreme Court affirmed, he was not eligible for rehabilitation benefits while incarcerated, pursuant to 39-71-744 (1991), nor was he eligible for indemnity benefits pursuant to 39-71-701 and 703 (1991), while incarcerated. Even if he were entitled to indemnity benefits, he had earned no wages and therefore could not recover any amount.

COLMORE vs. UNINSURED EMPLOYERS' FUND
Appeal from the WCC. Affirmed in part, reversed in part

The employer had an agricultural operation for which claimant was temporarily employed. The Supreme Court found the evidence sufficient to support the WCC conclusion that the employer operated the ranch for profit, and therefore workers' compensation coverage was mandatory.

The Supreme Court reversed the WCC ruling on calculation of benefits. The Supreme Court concluded that 39-71-520 (1990) applies. The widow failed to appeal the determination of benefits within 90 days. The WCC erred in increasing the weekly benefits.

OTTESON vs. MONTANA STATE FUND
Appeal from the WCC. Affirmed.

Employee sought to convert perm total benefits to perm partial benefits when he reached age 65. The Supreme Court upheld the WCC finding that 39-71-710 precludes the conversion of PTD benefits to PPD benefits upon retirement. The Montana State Fund acted reasonably, and employee was not entitled to costs, fees or penalty.

Department Administered Programs

Organizational Charts

**Workers' Compensation
Assessments as Expended**

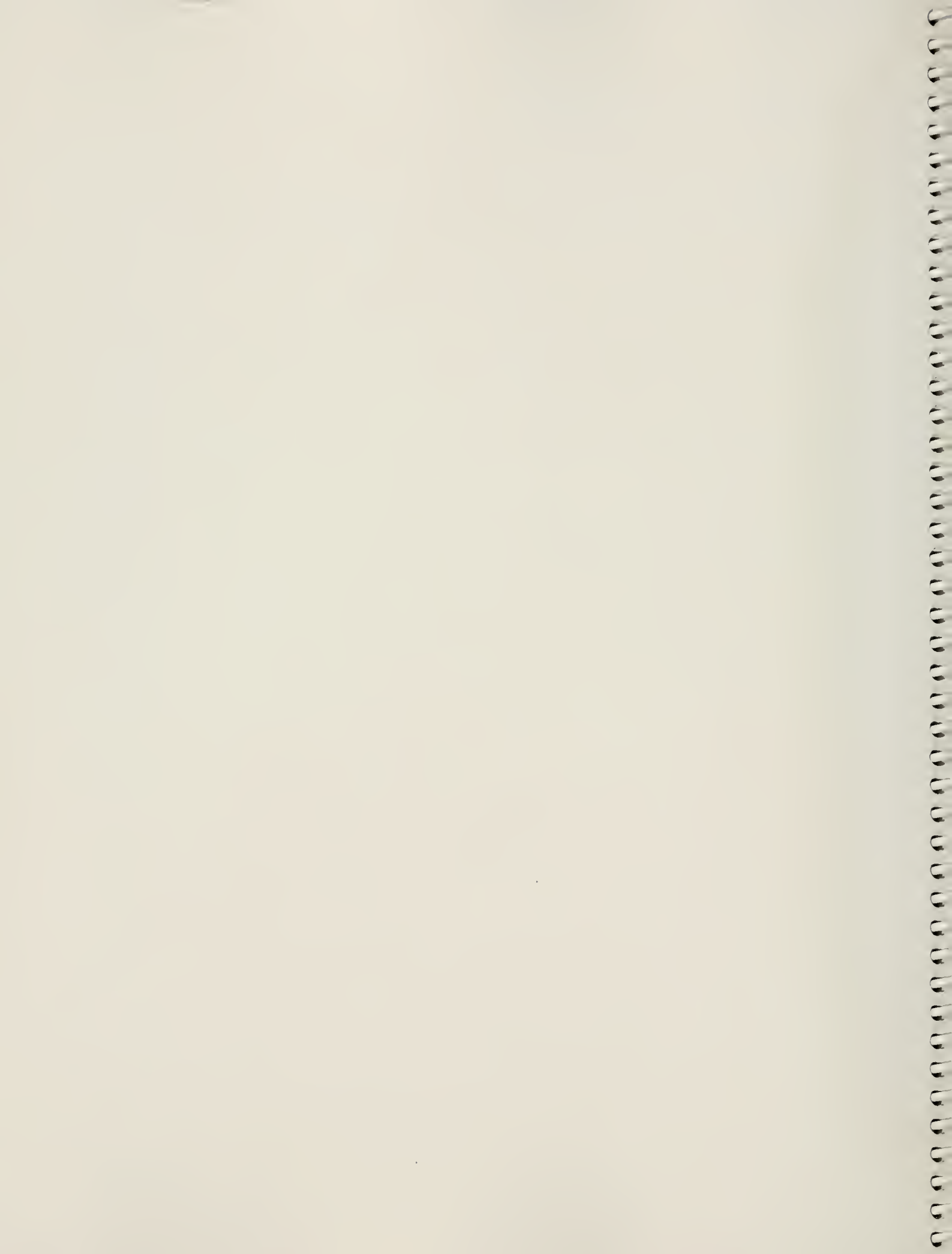
Subsequent Injury Fund

Uninsured Employers' Fund

Occupational Safety & Health

**Independent Contractor
Exemption Certificates**

**Professional Employer
Organizations**



Organizational Charts

Exhibit 7.1

Montana Department of Labor & Industry

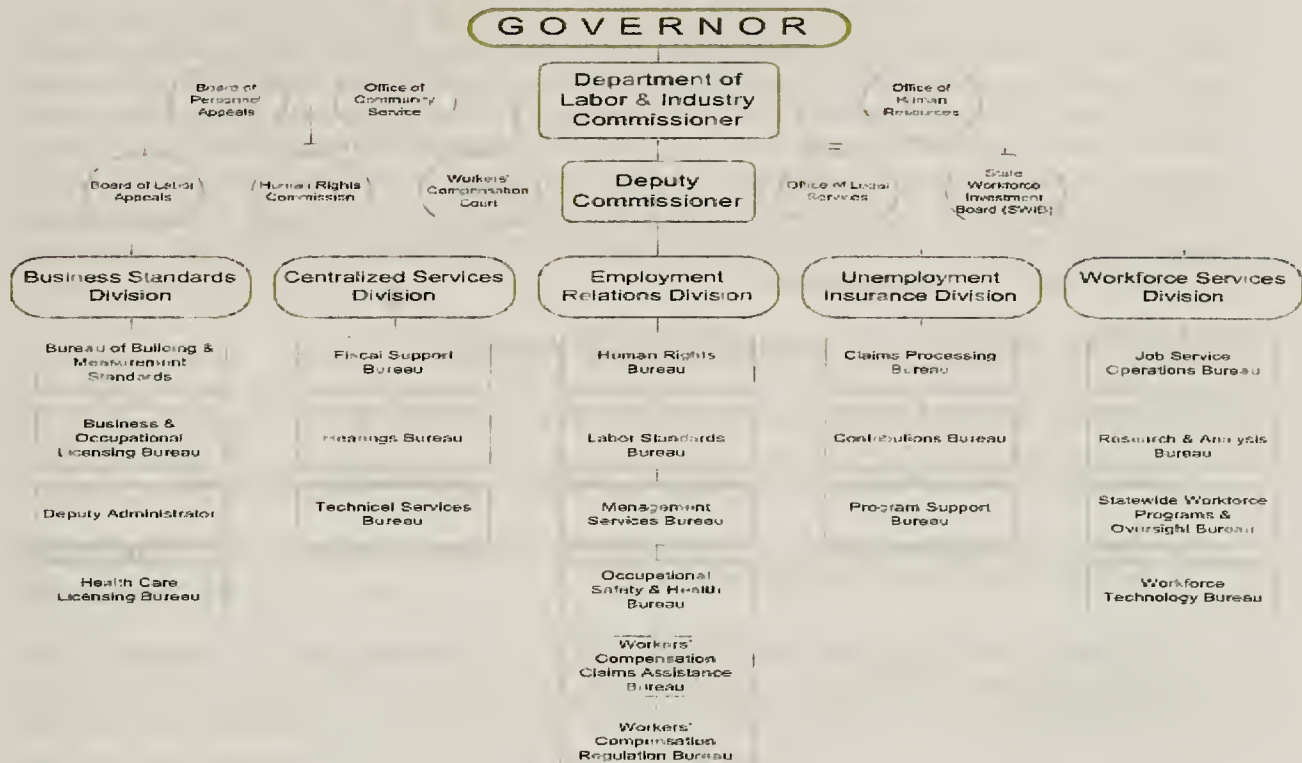


Exhibit 7.2

Employment Relations Division



Workers' Compensation Assessments as Expended

The administration of the Workers' Compensation and Occupational Disease Acts and the various occupational safety laws is funded by an assessment to Plan 1 (self insured employers), Plan 2 (private insurance carriers), and Plan 3 (Montana State Fund). Section 39-71-201, MCA, requires the administrative assessment to be three percent of benefits paid during the preceding calendar year for injuries covered under the Workers' Compensation Act and the Occupational Disease Act, without regard to the application of any deductible, whether the employer or the insurer pays the losses. Benefits included in the calculation are: (1) compensation benefits paid and (2) medical benefits paid (except payments in excess of \$200,000 per occurrence, which are exempt from the assessment).

DLI functions funded by the administrative assessments

- Legal functions of the WCC and the Hearings and Legal Bureaus;
- Administration of the ERD, including the Workers' Compensation Database;
- Claims management, data analysis, rehabilitation panels, mediation and administration functions of the Claims Assistance Bureau;
- Medical regulation, self-insurance, carrier compliance, PEOs, Managed Care Organizations and administration functions of the Workers' Compensation Regulation Bureau; and
- Occupational safety statistics, public facility inspections, OSHA on-site consultation grant match, mining inspection, MSHA mine training grant match and safety culture functions of the Occupational Safety and Health Bureau.

Exhibit 7.3
**Workers' Compensation Assessments as Expended
By Fiscal Year of Expenditure**

FY02	FY03	FY04	FY05	FY06
\$4,387,058	\$4,512,300	\$4,584,468	\$4,735,449	\$5,553,324

Subsequent Injury Fund

The SIF was established by legislation passed in 1973. The purpose of the SIF is to assist individuals with impairments to obtain employment by offering a financial incentive to employers for hiring SIF-certified individuals. Many states have similar funds called either subsequent or second injury funds. Montana's program is funded through an annual assessment on Plan 1, Plan 2 and Plan 3 via direct bill or via a surcharge.

The law defines "person with a disability" as a person who has a medically certifiable permanent impairment that is a substantial obstacle to obtaining employment or re-employment. Also taken into account are such factors as the person's age, education, training, experience and employment rejections.

The SIF program reduces the liability of the employer by placing a limit on the amount an employer, or the employer's insurer, will have to pay if the worker becomes injured or re-injured on the job. When that limit is reached, SIF assumes liability for the claim. If a certified worker does become injured on the job, the worker remains entitled to all benefits due under the Workers' Compensation and Occupational Disease Acts.

There were 216 new SIF certifications during FY06 bringing the total to 3,826 SIF-certified individuals in the state of Montana.

The assessment surcharge is based on a percentage of the compensation and medical benefits paid in Montana by each insurance plan in the preceding calendar year. The rate is set by the ERD based on the total amount of paid losses reimbursed by the fund in the preceding calendar year and the expenses of administration, less other income.

Exhibit 7.4 SIF Payments and Dollars Assessed By Plan Type¹ and Calendar/Fiscal Years

Plan Type ¹	FY02		FY03		FY04		FY05		FY06	
	Payments CY00	Assessment FY02	Payments CY01	Assessment FY03	Payments CY02	Assessment FY04	Payments FY04 ²	Assessment FY05	Payments FY05	Assessment FY06
Plan 1	18,819	0	180,361	99,700	62,115	0	55,417	42,792 ³	184,279	0
Plan 2	9,580	0	43,294	19,854	135,513	14,857	116,938	82,832	17,545	0
Plan 3	170	0	12,461	381	94,312	48,642	204	151,763	223,959	0
Total	\$28,569	\$0	\$236,116	\$119,935	\$291,940	\$63,499	\$172,559	\$234,595	\$425,783	\$0

Note:

¹Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund

²Change from Calendar Year to Fiscal Year basis (39-71-915, MCA)

³Previous year carryover credit from Plan 1 reduced the actual Assessment to zero

Uninsured Employers' Fund

The role of UEF is to provide benefits to employees injured on the job while working for an uninsured employer. Another prime role of the UEF is to ensure employers comply with workers' compensation laws so employees are properly covered.

The UEF Unit levies and collects penalties for the time that the employer is uninsured. UEF requires the uninsured employer to pay a penalty to the fund. Penalties can be double the insurance premium that would have been paid by the employer, or \$200, whichever is greater.

Exhibit 7.5
Uninsured Employers' Fund
Financial Activity by Fiscal Year

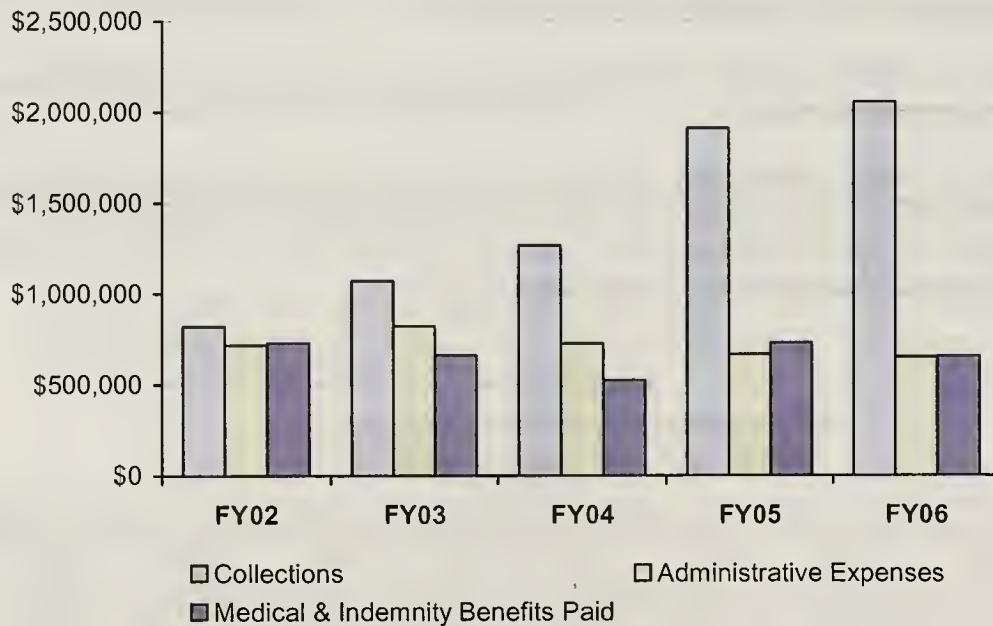


Exhibit 7.6
Uninsured Employers' Fund
Financial Activity by Fiscal Year

	FY02	FY03	FY04	FY05	FY06
Collections	\$816,467	\$1,071,012	\$1,412,419	\$1,908,717	\$2,051,992
Administrative Expenses	\$716,409	\$820,898	\$808,130	\$665,296	\$650,133
Medical & Indemnity Benefits Paid	\$582,716	\$662,301	\$522,973	\$728,279	\$654,758

Exhibit 7.7
UEF Medical and Indemnity Payments - FY06

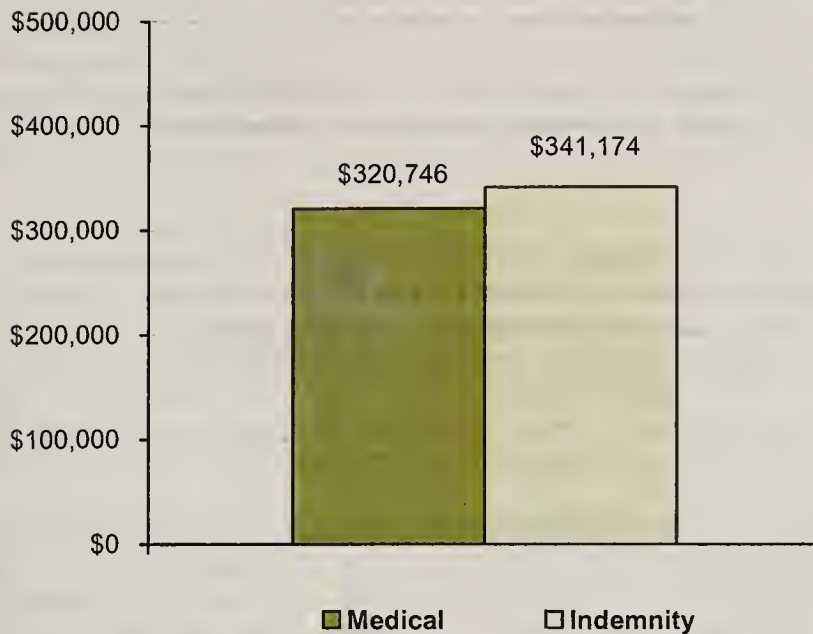


Exhibit 7.8
UEF Medical and Indemnity Payments
By Fiscal Year

	FY02	FY03	FY04	FY05	FY06
Medical	258,505	284,271	174,388	470,659	336,953
Indemnity	324,211	378,030	348,585	257,620	317,805
Total	\$582,716	\$662,301	\$522,973	\$728,279	\$654,758

The UEF recorded claims from 106 workers who were injured in FY06 and whose employers were uninsured.

Occupational Safety & Health

The vision of the Occupational Safety and Health Bureau (OSHA) is to be the premier resource in making Montana a leader in safety culture with the belief that all injuries are preventable and that the only acceptable goal for workplace injuries and illnesses is zero. The Bureau mission, then, is to raise the level of awareness of Montana employers, employees and the public about workplace safety and health through public-sector compliance inspections, private-sector consultation visits, technical assistance, training, public outreach and partnerships with other agencies and associations.

The ability to provide these services for Montana is enhanced through two federal grants. The first grant, through the Occupational Safety and Health Administration, provides resources to perform private-sector consultation visits upon invitation of a private employer. These visits offer a full suite of health and safety consultation services and are both free of charge and confidential to the employer. The second grant, through the Mine Safety and Health Administration (MSHA), provides resources to meet the federal requirement mandating "new miner" and "annual refresher" training for miners and mine contractors.

In addition to the services described above, Montana employers and workers have an additional safety-oriented resource in the Montana Safety Culture Act. The Act focuses on encouraging employers and employees to work together to implement strong workplace safety programs. Information on the Act's requirements and how to implement them can be found at: <http://erd.dli.mt.gov/safetyhealth/cultureact.asp>.



Exhibit 7.9
Occupational Safety & Health Activities - FY06

Occupational Safety & Health	Employer Sector
	Public/Private
	FY06
Public Inspections Performed	502
On-site Inspection Performed	242
Requests for Technical Assistance	1,399 (627 public and 722 private)
Basic and Advanced Training Sessions Conducted	43 ¹
Workers Trained	646 ¹

Mining Section	Coal					Sand & Gravel Operations				
	FY02	FY03	FY04	FY05	FY06	FY02	FY03	FY04	FY05	FY06
Inspections Performed	31	38	37	39	34	174	84	78	59	51
Mine Training Sessions Conducted	15	13	9	10	8	111	97	122	93	128
Workers Trained	497	200	210	169	31	1,512	1,679	2,468	1,728	1,983
Coal Mine Foreman Training Sessions Conducted	3	6	2	1	8	--	--	--	6	--
Coal Mine Foremen Trained	19	40	28	6	45	--	--	--	--	--

The Occupational Safety and Health Training Institute within DLI offers basic and advanced training courses in safety and health. These courses are scheduled a year in advance and are free of charge. Subject matter includes the OSHA 10-Hour course for general industry and for construction, confined space, inspection techniques, trenching and excavation, accident investigation, scaffolding, health and safety management, fall protection, welding, and more. Courses are designed to build a more effective workforce and to aid in the professional development for Montana employers and employees.

The Institute maintains a record of courses successfully completed by each student. These records are useful to both the student and the employer in demonstrating the commitment to a strong safety culture. Certificates are issued to those successfully completing the various courses. For more information visit: www.montanasafety.com

Training Institute	CY06¹
Training Sessions	43
Workers Trained	646
Local Focus Groups	CY06
Training Sessions	51
Workers Trained	749

¹ Training Institute and Local Focus Groups are calendar year

Independent Contractor Exemption Certificates

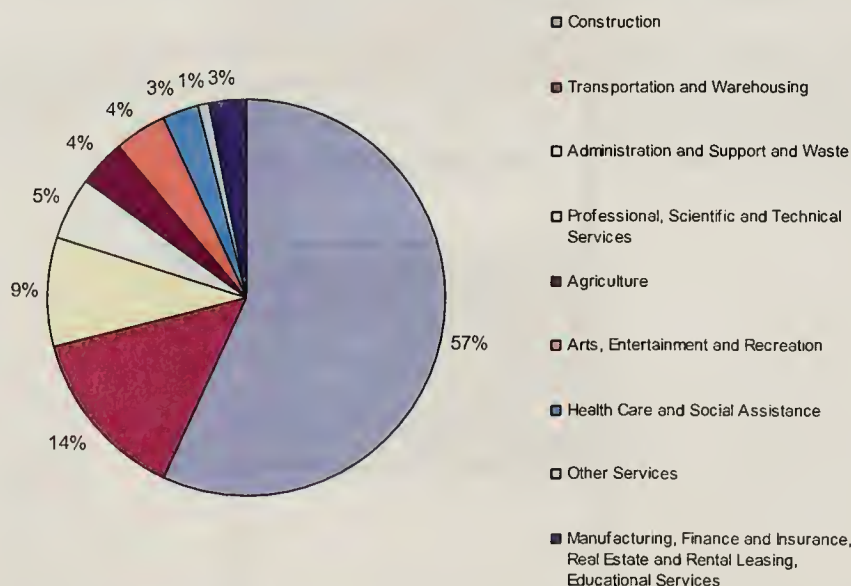
Independent contractor exemption certificates are issued through the department's Independent Contractor Central Unit. It is the intent of the program to assure only those individuals who are truly established in a business receive an independent contractor exemption certificate and those who hire them can rely on the certificate as conclusive proof the worker is an independent contractor.

Certificates may be suspended if control is exerted over the worker by the hiring agent enough to destroy the independent contractor relationship. They may also be revoked if a certificate holder fails to cooperate with the department. During FY06, 210 investigations took place across the state either affirming independent contractor relationships or requiring workers' compensation policies. The department revoked 35 exemption certificates for failure to cooperate with the department's investigation, and suspended 2 certificates for too much control over the worker.

One goal of the program is to educate the public of the rights and responsibilities of being an independent contractor or hiring one. This is accomplished through seminars, presentations, home show participation, news articles, a multi-media campaign, and as a last resort, penalty enforcement. Both the worker and those that hire them may be penalized. No penalties were issued for FY06.

The department received 10,254 applications during FY06, of which 9,488 were approved and 554 denied. Failure to provide a complete application was the primary reason for the denials. The Construction industry is clearly the largest with 57%. Transportation and Warehousing applications were 14%, Administrative and Support and Waste Management and Remediation Services, 9%, followed by Professional Scientific and Technical Services at 5%. The graph below categorizes all exemption applications received by the industry.

Exhibit 7.10
Percent of IC Exemptions – By Industry



The website www.mtcontractor.com provides more information on independent contractors in Montana.

Professional Employer Organizations

PEOs are required to be licensed by DLI prior to operating in Montana. A PEO is a business in good standing that contracts with other businesses, providing the businesses with leased employees or most frequently leases all or part of their employees. A PEO manages the paperwork responsibilities associated with having employees. They are to pay employee wages, workers' compensation premiums, payroll-related taxes, and employee benefits from their own account without regard to payments by the client. Thus, they become the employer of record. The client companies in return pay the PEO all employee costs plus an administrative fee. The client company is sometimes termed a co-employer. A client is an employer who obtains all or a part of its workforce through an employee leasing arrangement or a professional employer arrangement, both by contract with a PEO.

In FY06, ERD renewed and maintained 29 PEO licenses. An increasing number of client companies maintained contracts with a PEO in FY06, and through the 379 client companies of record, 2,964 employees were employed.

Exhibit 7.11

Professional Employer Organizations By Number of Licenses and Fiscal Year

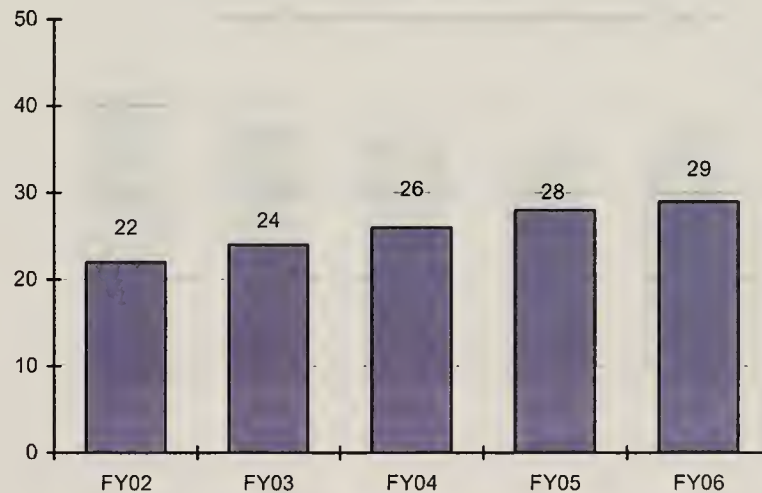


Exhibit 7.12

**Professional Employer Organizations
By Number of Clients and Fiscal Year**

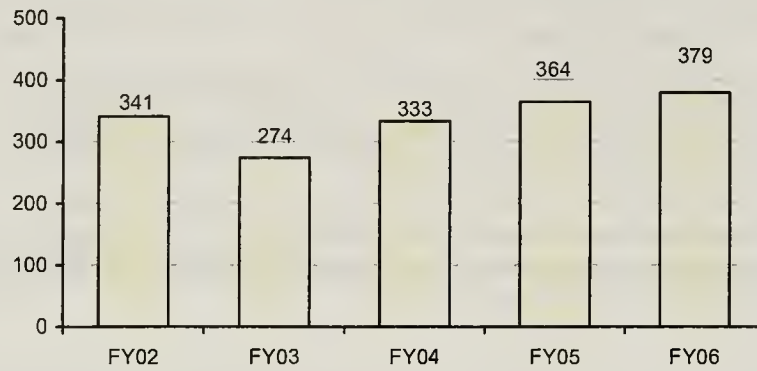
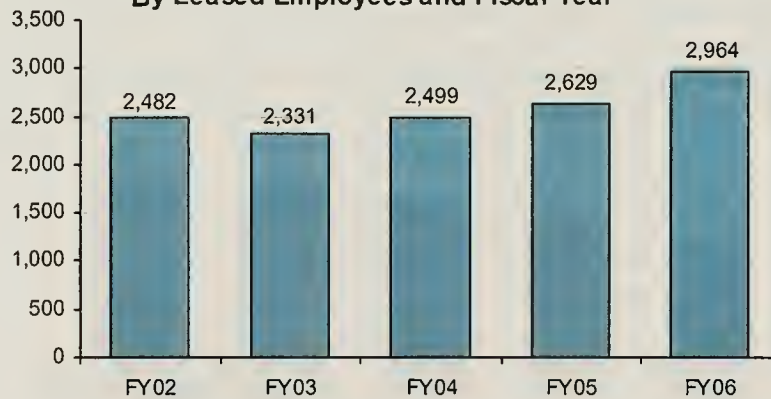


Exhibit 7.13

**Professional Employer Organizations
By Leased Employees and Fiscal Year**



Data Source: (UIT) Unemployment Insurance Tax System

Appendices

Definitions

Methodology

Data Sources

Future Annual Reports

Internet Site

Special Studies Available



Definitions

Calendar Year: The year beginning January 1st and ending December 31st.

Cause of Injury Code: The code that corresponds to the cause of injury or occupational disease. The International Association of Industrial Accident Boards and Commissions (IAIABC) codes for cause are divided into nine categories. A tenth category, "Miscellaneous Causes" was created to account for the records that did not have a cause code entered or All Other Claims, NOC (Not Otherwise Classified).

Burn or Scald – Heat or Cold Exposure: Includes chemical, hot or cold objects, temperature extremes, fire or flame, steam or hot fluids, dust, gases, fumes or vapors, welding, radiation, abnormal air pressure and electrical current.

Caught In, Under or Between: Includes caught in or between machinery, an object being handled and miscellaneous objects such as earth slides or collapsing materials either man made or natural.

Cut, Puncture Scrape or Injured By: Includes punctures, cuts, or scrapes as a result of broken glass, hand tools, utensils, power tools or appliances.

Fall, Slip or Trip: Includes falling from a different level or on the same level, ladder or scaffolding falls, slipping on liquid or grease spills, fall into opening such as shafts, excavations or floor openings, stairs or slips on ice and snow.

Miscellaneous Causes: Includes absorption, injection or inhalation, foreign matter in eye, robbery or criminal assault, not otherwise classified (NOC); includes all records where cause was not reported on the First Report of Injury or where the code could not be converted to IAIABC codes.

Motor Vehicle: Includes crash of water vehicle, rail vehicle, collision with another vehicle or fixed object, rollovers, rough riding and airplane crashes.

Rubbed or Abraded By: Includes repetitive motion such as callous, blister, etc.

Strain or Injury By: Includes continual noise, twisting, jumping, holding or carrying objects, lifting, pushing, pulling, reaching, and using tool or machinery, wielding or throwing and repetitive motion.

Striking Against or Stepping On: Includes moving machine parts, objects being lifted, sanding, scraping or cleaning operations, stationary objects and stepping on sharp objects.

Struck or Injured By – Includes Kicked, Stabbed, Bit, Etc: Includes falling or flying objects, hand tools or machines in use, co-workers, or patients, motor vehicles, moving machine parts and objects handled by others.

Compensation Benefits: Any payment made directly to the worker (or the worker's beneficiaries) other than a medical benefit. The term includes payments made pursuant to a reservation of rights or in settlement of a dispute over initial compensability of the claim. The term does not include expense reimbursements for items such as meals, travel or lodging.

Employment Relations Division: The State of Montana's regulatory agency for workers' compensation. This division is part of the DLI.

Fiscal Year: The State of Montana's fiscal year begins July 1st and ends June 30th of the following year. (Example: 07/01/04 - 06/30/05 = FY05)

First Report of Injury and Occupational Disease (FROI): The initial report designed to notify parties of the occurrence of an injury or occupational disease. The FROI contains basic claim information about the worker, accident, employer and insurer.

Indemnity Payments: Payments made by the insurer to the injured worker to compensate for the loss of wages resulting from an injury or occupational disease.

International Association of Industrial Accident Boards and Commissions: An organization of workers' compensation specialists including government officials and regulators, business and labor leaders, medical providers, law firms, insurance carriers, and rehabilitation and safety experts. Working groups work jointly to standardize reporting of workers' compensation data. Standards have been developed for communicating data electronically through Electronic Data Interchange (EDI).

Median: The middle value of a distribution; half the values are above the median and half are below the median. When a distribution consists of an even number of values, the median is calculated by taking the average of the two middle values.

Montana Code Annotated (MCA): The definitive guide to Montana laws, consisting of the Constitution, codes and statutes. The MCA is normally published each odd numbered year incorporating changes made by the Legislative session of that year.

Nature of Injury Code: The code that corresponds to the nature of the injury or occupational disease. The IAIABC codes for nature are divided into eight categories. A ninth category "All Other Claims, NOC", was created to account for the records that did not have a nature code entered.

All Other Claims, NOC: Includes asphyxiation, loss of circulation, infection, concussion, heart problems, vision loss, hearing loss, poisoning, fainting, no physical or psychological injuries; includes all records where nature code was reported as "unclassified", the code was not reported on the First Report of Injury, or the code could not be converted to IAIABC codes.

Amputation: Includes loss of a limb that involves bone, loss of part of an organ, enucleation or severance of a body part.

Bruise or Swelling: Includes contusions, broken blood vessels and inflammation.

Burn or Exposure: Includes electrical shocks, chemical burns, temperature extremes, freezing, sunburns, heat stroke and lightning.

Cut or Abrasion: Includes slivers, lodged small objects, open wounds, scrapes and needle sticks.

Fracture: Includes any breaking of a bone.

Multiple Injuries

Occupational Disease: Includes repetitive motion, loss of hearing or sight, respiratory conditions, poisoning, mental disorders, radiation, heart disease, cancer, AIDS, carpal tunnel and any disease resulting from work related experiences.

Sprain or Rupture: Includes strains, dislocations, hernias, organ ruptures and trauma to joints or muscles.

Other Benefits Code: A code that identifies the type of other benefits paid to date or recovered for an injury or occupational disease. The following are IAIABC code definitions:

Consultant/Expert Witness Fees Paid to Date by Insurer: Sum of fees paid to expert witnesses (in a legal proceeding for expert testimony or opinion) for this claim.

Employer's Deductibles Recovery: Sum of monies recovered through Insured reimbursement of deductible amounts for this claim.

Funeral Expenses Paid to Date: Sum of the funeral expenses for this claim.

Hospital Costs Paid to Date: Sum of costs of both inpatient and outpatient services which the injured employee received because of the work related injury.

Insurers Legal Expense Paid to Date: Sum of the employer's legal expenses paid for this claim.

Other Medical Paid to Date: Sum of medical costs not included in payments to physicians or hospital costs, i.e. laboratory tests, prescriptions.

Other Vocational Rehabilitation Education Paid to Date: Sum of vocational rehabilitation services not otherwise reported for this claim.

Overpayment Recovery: Sum of monies recovered due to overpayment of indemnity, medical or expenses for a claim.

Subrogation Recovery: Sum of monies recovered through subrogation for this claim.

Total Payments to Physicians: Sum of services paid to physicians for this claim.

Unspecified Recovery: Sum of monies recovered through salvage, apportionment/contribution, and all others not otherwise defined for a claim.

Vocational Rehabilitation Education Paid to Date: Sum of vocational rehabilitation education payments (including tuition, books, tools, transportation and additional living expenses) for this claim.

Vocational Rehabilitation Evaluation Expense Paid to Date: Sum of vocational rehabilitation evaluation services (testing and evaluating the claimant's ability, aptitude, or attitude in determining suitability for vocational rehabilitation or placement) for this claim.

Part of Body Code: The code which correspond to the part of body to which the employee sustained injury or occupational disease. The IAIABC code definitions for part of body are divided into six categories. The additional categories of "Wrist", "Back" and "Knee" are reported to provide greater detail. A tenth category, "All Other Claims, NOC", was created to account for the records that did not have a part of body code entered.

All Other Claims, NOC: Includes all records where the part of body code was reported as "unclassified", the code was not reported on the First Report of Injury, or the code could not be converted to IAIABC codes.

Back: Includes the upper and lower back, disc, or lumbar and sacral vertebrae.

Head: Includes multiple head injuries, skull, brain, ears, eyes, nose, teeth, mouth, soft tissue or facial bones.

Knee: Includes the patella (kneecap) and supporting ligaments.

Lower Extremities: Includes multiple lower extremities, hip, upper leg, knee, lower leg, ankle, foot and toe.

Multiple Parts: Includes artificial appliances, multiple body parts or body systems.

Neck: Includes multiple neck injuries, vertebrae, disc, spinal cord, larynx, soft tissue or trachea.

Trunk: Includes multiple trunk injuries, upper and lower back, disc, chest, sacrum and coccyx, pelvis, spinal cord, internal organs, heart, lungs, abdomen and buttocks.

Upper Extremities: Includes multiple upper extremities, upper arm, elbow, lower arm, wrist, hand, fingers, thumb and shoulders.

Wrist: Includes hand and wrist or just wrist injuries.

Occupational Disease: Harm or damage caused by work-related events that occur on more than a single day or work shift. It includes acute chronic illnesses or diseases caused by inhalation, absorption, ingestion or overuse syndrome.

Occupational Injury: A cut, fracture, sprain, amputation, or other physical harm, which results from a work accident on a single day or during a single work shift.

Permanent Partial Disability (PPD): Permanent impairment resulting from an injury, after achieving maximum medical improvement that impairs the worker's ability to work and causes an actual wage loss. PPD benefits are calculated using 66⅔% of the wages received at the

time of injury, not to exceed half the state's average weekly wage at the time of injury. Maximum length for PPD benefits is determined by the date of injury.

Permanent Total Disability (PTD): A physical condition resulting from an injury or occupational disease, after achieving maximum medical improvement, in which the worker has no reasonable prospect of physically performing regular employment. PTD benefits are calculated using 66⅔% of the wages received at the time of injury, not to exceed the state's average weekly wage at the time of injury. The injured worker may receive cost of living increases.

Plan Type: The type of workers' compensation insurance coverage chosen by an employer. There are three different types of insurance plans:

Plan 1: Self-insurance provided by employers who have sufficient financial strength to cover potential workers' compensation claims. If an injury occurs, a self-insured employer will pay the expenses and benefits.

Plan 2: Insurance coverage provided by a private insurance company.

Plan 3: Insurance coverage provided by the Montana State Compensation Insurance Fund (Montana State Fund).

Plan 5: Uninsured Employers Fund (UEF)

Plan 6: Subsequent Injury Fund (SIF)

Professional Employer Organizations (PEO): Professional Employer Organizations provide human resource services for small to medium size businesses. Examples of services provided by PEOs are staffing, securing unemployment and workers' compensation insurance, and handling payroll taxes and medical benefits. PEOs must be licensed by ERD prior to contracting with any client companies.

Standard Industrial Classification (SIC) Codes: Codes used to categorize employers by industry and are published by the Federal Office of Management and Budget in the 1987 Standard Industrial Classification Manual. SIC codes are grouped into ten different industrial divisions, as listed below with examples of each division.

Agriculture, Forestry & Fishing (AFF): Includes establishments primarily engaged in agricultural production, forestry, commercial fishing, hunting, trapping and related services.

Construction: Includes establishments performing new work, additions, alterations, reconstruction, installations, and repairs. Three broad types of construction activity are covered: building construction by general contractors, heavy construction other than building by general contractors, and construction activity by other special trade contractors.

Finance, Insurance and Real Estate (FIRE): Finance includes depository institutions, non-depository credit institutions, holding companies, other investment companies, brokers and dealers in securities and commodity contracts, and security and commodity exchanges. Insurance covers carriers of all types of insurance, and insurance agents and brokers. Real estate includes owners, lessors, lessees, buyers, sellers, agents, and developers of real estate. Establishments primarily engaged in the construction of buildings for sale are classified in construction.

Manufacturing: Includes establishments engaged in the mechanical and chemical transformation of materials or substances into new products. These establishments are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Establishments engaged in assembling

component parts of manufactured products are also considered manufacturing if the new product is neither a structure nor other fixed improvement. Also included is the blending of materials, such as lubricating oils, plastic resins or liquors.

Mining: Includes all establishments engaged in the extraction of minerals occurring naturally, and also includes quarrying, well operations, milling, and other preparation customarily done at the mine site, or as a part of mining activity. Exploration and development of mineral properties are included.

Public Administration: Includes the executive, legislative, judicial, administrative and regulatory activities of federal, state and local governments.

Retail Trade: Includes establishments engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of the goods.

Services: Includes establishments primarily engaged in providing a wide variety of services for individuals, business or government establishments, and other organizations such as, hotels and other lodging places; establishments providing personal, business, repair, and amusement services; health, legal, engineering, and other professional services; educational institutions; and membership organizations.

Transportation, Communication, and Public Utilities (TCPU): Includes establishments providing to the general public, or to other business enterprises, passenger and freight transportation, communications services, or electricity, gas, steam, water, or sanitary services and all establishments of the United States Postal Service.

Wholesale Trade: Includes establishments or places of business primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional, farm, construction contractors, or professional business users, or to other wholesale; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies.

Subsequent Report: A report that gives indemnity and medical payment information on an injured worker's claim. The report includes the date benefit payments begin and amounts paid by benefit type.

Temporary Partial Disability (TPD): A physical condition resulting from an injury, prior to achieving maximum medical improvement that causes a partial loss of wages. TPD benefits are the difference between the injured worker's actual weekly wage and the actual weekly wage earned during the injured worker's temporary partial disability. TPD benefits are limited to a total of 26 weeks, but the insurer may extend the period. They are subject to a maximum of 40 hours per week and capped at the injured worker's Temporary Total Disability rate.

Temporary Total Disability (TTD): A physical condition resulting from an injury or occupational disease, prior to achieving maximum medical improvement that causes a total loss of wages. TTD benefits are calculated using 66⅔% of the wages received at the time of injury, not to exceed the state's average weekly wage at the time of injury.

Vocational Rehabilitation Benefits: Benefits paid to the injured worker at the worker's TTD rate. The benefits are paid for the period specified in the job placement or retraining plan, not to exceed 104 weeks. The plan is prepared by the rehabilitation provider and agreed to by the insurer and injured worker.

Methodology

Industry Divisions

Information is grouped by industry division whenever possible to allow for comparison using SIC codes. It is not mandatory to report SIC codes and if they are not provided, the injury will be reported under "NOC-Not Otherwise Classified" on the tables.

Injury and Occupational Disease Data

The First Report of Injury and Occupational Disease (FROI) is used to gather injury and occupational disease data. FROI's consist of four sections that provide information on the worker, accident, employer and insurer. It is completed and submitted to ERD by employees, employers or insurers. The injury or occupational disease may be reported under "NOC-Not Otherwise Classified", due to lack of data or the inability to categorize the data.

The FROIs in this study include all injuries and occupational diseases reported to ERD; however, all injuries and occupational diseases that occurred in Montana may not have been reported.

Subsequent Report Data

The Subsequent Report (SROI) is completed for each individual indemnity claim and is submitted to ERD by adjusters or insurers on every six-month anniversary of the date of injury, until the claim is closed or additional compensation or medical payments are not anticipated. The form includes claimant identification information, status of the claim; type of benefits paid and benefit payment amounts.

The study includes data reported to ERD on injury and occupational disease indemnity claims. Subsequent Reports may not have been submitted to ERD for all indemnity claims.

Benefit Report Methodology

The benefit information used to determine the amounts and dates of paid benefits is extracted from Subsequent Reports of Injury (SROIs). As defined above SROIs are reports that the DLI requires insurance companies to submit at six month intervals throughout the life of an indemnity claim. The reports provide updates as to the status of an indemnity claim, including information on the wage loss and medical benefits paid. The SROI contains the amount paid for each type of benefit and specifies the date through which the stated benefit amount was paid. For wage loss benefits this date is explicitly stated. Medical benefit information is required to be up-to-date when the SROI is submitted; therefore, the SROI submission date is used as the date through which medical benefit payment information is current.

The first step in computing the statistics was to identify the amount of benefits paid through each subsequent year following an injury. That amount was the paid benefit amount associated with the most recent paid through date (on any SROI) within the number of years from injury that the column represents. For each claim an amount was identified in this manner for each column, representing each year from the date of injury. Next, the yearly amounts from all of the individual claims were compiled and grouped by fiscal year of injury. Lastly, statistical software (SAS) was used to compute descriptive statistics for these sets of paid benefit amounts.

To illustrate our methodology, assume the following table lists all of the information for Temporary Total Disability benefits paid on a claim for an injury sustained on 1/1/2001.

SROI #	Benefit Type	Amount Paid	Paid Through Date	Year" Column
1	TTD	\$5,000	6/30/2001	Not Used in Table
2	TTD	\$10,000	12/31/2001	"First Year"
3	TTD	\$13,000	3/31/2002	"Second Year"

An injury that occurred on 1/1/2001 would use the benefit paid amount stated on the last SROI reported Paid Through Date on or before 1/1/2002 as the amount reported in the "First Year" column. In the example illustrated above, both SROI #1 and SROI #2 report an Amount Paid within one year of the date of injury. As the Paid Through Date on SROI #2 (12/31/2001) is later than the Paid Through Date on SROI #1 (6/30/2001), the Amount Paid used in the table as the "First Year" amount would be the Amount Paid listed on SROI #2 (\$10,000). This amount is the most up-to-date paid benefit amount specifically reported within one year of the injury. The amount reported in the "Second Year" column is the benefit paid amount associated with the last SROI reported Paid Through Date on or before 1/1/2003. The most recent Paid Through Date within two years of date of injury in the example is 3/31/2002. The benefit amount reported in the "Second Year" column will then be \$13,000. As demonstrated in the example, the amount paid increased (representing continued payment) from the first to the second year. The larger amount was associated with a Paid Through Date between one and two years from the date of injury. This increase in paid benefits because of continued payment from the first to second year from the date of injury is what is meant by cumulative totals. Consequently, the right-most populated column of each row contains the most current figures. If no payments were made beyond 3/31/2002, then all remaining columns will report the amount paid in the second year (\$13,000) as it is still the accumulated amount through the remaining years (each subsequent year accumulated \$0).

A claimant who received the first benefit payment more than a year after the injury date wouldn't appear in the table until after the first year column. Consequently, the total number of claims could accumulate in successive years. An injured worker could receive payment for multiple types of benefits that are measured by a single table; for example, receiving benefits for two or more of the types of benefits reported the "Total Wage Replacement" table. In this situation the assignment of paid benefit amounts to a "Year" was first done individually for each benefit type, and then these individually benefit amounts were combined into a single paid benefit amount. For these claims only the combined amount was used in the table so that each claim was counted only once in each "Year".

ERD made one significant methodological change from previous annual reports in compiling the tables for the 2006 report. As described above the assignment of paid benefits to a "Year" was done specific to the duration of time between the date of injury and the date through which a benefit was paid. In past annual reports the assignment of paid benefits was done by the fiscal year in which the benefit Paid Through Date occurred. The department chose to make this change so users of the report would have statistics on the amounts paid within the specified number of years after the injury, instead of reporting the amounts paid in the subsequent fiscal years following the fiscal year of the injury. Additionally, in the past year ERD, along with Montana adjusters, carriers and Trading Partners, worked ardently to improve both SROI reporting and the quality of data reported to the workers' compensation database.

Year-to-Year Comparisons

Whenever possible, the data is presented with a comparison between the last five fiscal years.

Data Sources

Department of Labor and Industry, Mediation Unit

The Mediation Unit of ERD provided mediation section data.

Department of Labor and Industry, Occupational Safety and Health Bureau

The Safety and Health Bureau of ERD provided safety section data.

Department of Labor and Industry, Workers' Compensation Regulation Bureau

The Workers' Compensation Regulation Bureau provided data for the following sections of the report: Plan 1 Gross Annual Payroll, Plan 2 and 3 premium dollars, PEOs, Indemnity and Medical Benefits, SIF, Managed Care Organizations (MCOs), UEF and IC Exemption Certificates.

Department of Labor and Industry Hearings Bureau

The Hearings Bureau provided Contested Case Hearings data.

Quarterly Expenditure Reports

Quarterly Expenditure Reports are reported to the DLI by carriers. Totals are data entered into WCAP in three categories; compensation, medical and miscellaneous.

Regulatory Costs and Industrial Accident Rehabilitation Trust Fund Expenses

These costs were obtained from the state's Accounting, Budgeting and Human Resource System (SABHRS).

Workers' Compensation Court

WCC data were provided by the court, which is administratively attached to the DLI.

Workers' Compensation Database (WCAP)

The database system was built at the request of the legislature to provide management information. Employers, insurers, claimants, attorneys, medical providers and other parties of the workers' compensation community in Montana provide data for the system. ERD maintains the database.

Future Annual Reports

If you have suggestions or comments about this annual report, please share them with us. We are most interested in any comments or suggestions that will make this report more useful to Montanans in general and the workers' compensation system in particular. You may direct your comments to:

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Internet Site

This report and previous reports are available on the Internet at the following web site:
<http://erd.dli.mt.gov/wcclaims/wcchome.asp>

Special Studies Available

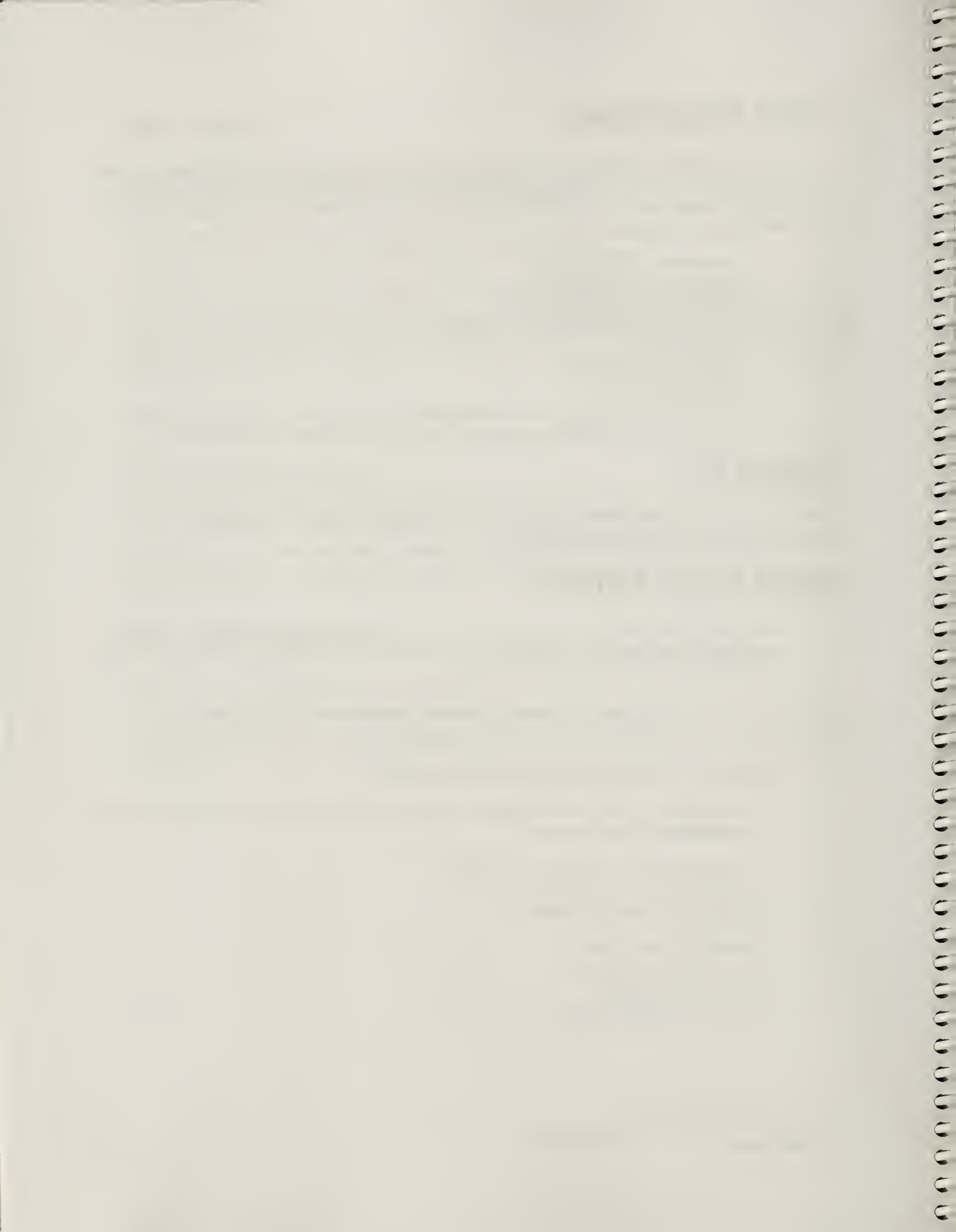
- The Effect of Apportionment and Capping on Occupational Disease Claims – *A study requested by the Montana Department of Labor & Industry, Employment Division and conducted by Insurance Service Offices, Inc.*¹
 - This report is available on the Internet at the following web site:
<http://erd.dli.mt.gov/wcclaims/wcchome.asp>
- Attorney Fee Supplement to Settlement Attorney Fees²

To request a copy of an Annual Report, special study or Attorney Fee Supplement, please contact:

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